The American Political Science Review

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The American Political Science Review

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POLITICAL DEVELOPMENTS AND TENDENCIES[1]

JOHN A. FAIRLIE
University of Illinois

It has seemed fitting, at this second meeting of the Association in New Orleans, where it was organized a quarter of a century ago, to give some attention to significant happenings during this period, in the affairs of the Association, in the field of political action, and in the analysis and interpretation of political phenomena. At least two former presidents have discussed some phases of these topics; but there is perhaps room for a difference of approach and emphasis.

When this Association was organized, the systematic study and teaching of political problems was but slightly developed. Only a few courses in public law and government were given in some of the larger universities. Of the twenty-five persons who were present at the organization of the Association, and the 214 who became members during the first year, a large proportion were primarily interested in history, economics, and other social studies with political bearings, rather than in political problems themselves.

In the constitution of the Association, its object was stated to be: "The encouragement of the scientific study of politics, public law, administration, and diplomacy." In the first presidential address, President Goodnow outlined the field of work of the Association as including political theory, constitutional and administrative law, comparative legislation, historical and

[1] Presidential address delivered before the American Political Science Association at New Orleans, La., December 27, 1929.

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comparative jurisprudence, and political parties. He also noted the opportunity of the Association to secure the active coöperation of teachers of these subjects, and to bring together the student and those actively engaged in political life. A further indication of the plans of those who established the Association may be seen in the appointment of a series of standing committees on different branches of the field outlined, and the reorganization of these a year later into sections.

We may ask how far this prospectus has been carried out, and to what extent the scope of the Association has been broadened or contracted?

That it has established itself may be seen in the expansion of its membership, except for a short period during the World War, to over 1,900. These are in large part those engaged in teaching in the field of its interests; and this growth is an indication of the increasing attention to this subject in the educational institutions of the country. To some extent, public officials and others interested in political affairs have become members and have taken part in the meetings of the Association. But it must be admitted that these form as yet a relatively small portion. On the other hand, many members of the Association have had an active influence in public affairs; and coöperation between the student and public officials is much greater than it was.

The annual meetings of the Association have grown in interest and attendance. For some years these were held jointly with the older Historical and Economic Associations, and other societies in the field of social relations which have come into existence. In recent years it has been more difficult to bring together all of such organizations; and the Political Science Association has united with different groups. These joint meetings have made possible joint sessions for the consideration of common problems.

The particular topics considered have naturally varied from year to year; and there have been changes in the emphasis on different branches of the general field, with political develop-

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ments. In recent years, little attention has been given to comparative legislation, colonial government, or jurisprudence. On the other hand, more time has been given to international relations, public administration, and methods of research.

A list of titles of presidential addresses would give some indication of the trend of developments. For younger members of the Association, it may be worth while to recall those of James Bryce on The Relations of Political Science to History and Practice, President Lowell on The Physiology of Politics, and Woodrow Wilson on The Law and the Facts. Most of the present members will remember the more recent addresses by Professors Dunning and Garner on International Relations, Professor Merriam on The Progress of Political Research, Professor Beard on Time, Technology, and the Creative Spirit, and Professor Munro on Physics and Politics.

The general plan of standing committees and sections set up at the beginning did not function for a time. But important work has been done by a number of committees; and the recent development of round tables at the annual meetings may be considered a revival of the original plan in a modified form; and these seem now to be well established.

Attention has been given to the problems of instruction in government. A section meeting on this subject was held in 1905; and a committee report was presented in 1908. In 1910 the study of government was discussed; in 1912 a committee on the teaching of government considered laboratory methods; and in 1913 there were committee reports on instruction in colleges and universities and practical training for public service. The more recent committee on policy has made an extensive survey of instruction in political science in universities and colleges, and in technical and normal schools.

A committee on research established in 1921 has given increased emphasis to systematic investigations, was responsible for a series of summer conferences held for three years on methods of research in political subjects, and initiated the movement for the organization of the Social Science Research Council.

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The committee on policy appointed two years ago has made extended surveys of the different fields of interest of the Association, and proposed a program for further development.

The publications of the Association have formed an important means for extending its influence. For ten years, an annual volume of the papers and proceedings of the annual meeting were published. From time to time, important committee reports have been issued, notably that on The Teaching of Government. In 1906 the quarterly *American Political Science Review* was begun, and has furnished a medium of increasing scope and importance for the publication of important articles in political science, and through its special departments for noting important developments in the political field and records and reviews of publications.

The Association may be said to have fully justified its formation, to be firmly established, and may well look forward to continued life, with an expanding field of usefulness.

A quarter of a century is a brief span in the recorded history of the world. But the first lap of the present century may well seem of outstanding importance to those who have witnessed the march of the times, and signs are not lacking that in the future it may be considered one of the great turning points in political development.

It may be worth while to recall some features of the political situation at the time when the Association was organized. Theodore Roosevelt was president of the United States, as successor to President McKinley; but it was before the intense activity of his term as president in his own right. It was early in the reign of Edward VII in Great Britain, with Balfour as prime minister. William II of Germany was in the second decade of his reign; and Émile Loubet was president of France. It was after the Sino-Japanese, Spanish-American, and South African wars, and before the Russo-Japanese war, and international relations were quiescent, though new problems were in sight.

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During the first decade in the life of the Association, before the crisis of the World War, there were significant events. President Roosevelt's elective term set a new high water mark in the tide of centralization and executive power in the United States; and these tendencies were also reflected in the records of such state governors as Hughes and LaFollette, the adoption of two amendments to the "unchangeable" Constitution of the United States, and the legislation during the first term of President Wilson. In Great Britain, the revival of the Liberal party was marked by increased governmental activity in social and financial legislation. In France, a more concentrated party organization led to more stable government, and an active assertion of the authority of the state over the church. Revolutions in Turkey and China were signs of the political awakening of the East to the influence of democratic ideas; while the Russo-Japanese War demonstrated the self-determination of an Asiatic power, which altered the face of international relations.

At the same time, the tendency toward a more popular basis of government continued, by the extension of suffrage in European countries, the increasing agitation for woman suffrage, and the adoption of direct primaries, and the initiative and referendum, in the United States.

The World War not only was the most stupendous conflict in the history of mankind, but marked the climax of centralized governmental authority in the contending nations. But the transformations in institutions which followed have a more permanent significance to the scientific student of political affairs.

Ten years ago, at the close of the World War, our president, Henry Jones Ford, compared the situation during the war to the upset of a stage coach, which had dislodged the student of politics from his observation post to take a direct part in the emergency. Expanding the metaphor, it may be suggested that there had been a general crash of political vehicles of various sorts at an important cross-road, which sent some of

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the machines to the junk pile, and damaged most of the others so as to call for extensive repairs. It may now be possible to survey the new models now on the roads, to note the directions in which they are moving, and to consider what developments have taken place in the methods of observing and testing political machinery and in devising traffic regulations to prevent further collisions.

First may be noted the downfall of hereditary monarchies and the establishment of democratic republics in most of Europe, with the enlargment of the basis of popular government in many countries to include women, and the introduction of systems of proportional representation. In the early and middle nineteenth century, such changes would have been considered a movement away from centralized government. But the new democratic republics of Europe have adopted the more centralized cabinet system in preference to the American legal separation of powers; and the German Republic is more highly centralized than the former German Empire. The rise of the Socialist and Labor parties, which has come with the new democracy, has meant an increased exercise of governmental authority, which has reached a maximum in the dictatorship of the proletariat in Russia. More recently there have come to power a number of single dictators in several countries; and in most countries executive authority dominates the representative organs of government. Even in England, the Lord Chief Justice has called attention to "The New Despotism" of the bureaucracy.

On the other hand, there have been the "balkanization" of Europe by the emergence of new and smaller states from the former empires of Austria-Hungary and Russia, the notable increase of dominion authority in the British Commonwealth of Nations, and the beginnings of self-government for British India.

But these tendencies toward decentralization are, at least to some extent, counterbalanced by the developments in the field of international organization. The League of Nations,

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the Permanent Court of International Justice, the readjustments of reparations, are all agencies in a larger political synthesis. Even the United States, in the Washington Conference and the Kellogg-Briand Peace Pact, has taken part in the work of international coöperation.

Within the United States, there has been some decline in executive authority in the national government, though there have been important illustrations of effective leadership by state governors, and new signs of executive leadership are evident at Washington. Moreover, federal centralization proceeds apace—as indicated by prohibition, federal aid to roads and education, and in other fields. But those who declaim about the "vanishing rights of the states" overlook the steady expansion of state activities, and the reorganization and centralization of state administration. In the field of local government, the importance of municipal government and the concentration of power in mayor, commission, or city manager continues to develop; while less generally appreciated is the expanding importance of county government, and the decline of the township.

It may be said that the top-heavy stage coach of dynastic rule has about disappeared, and that the new political vehicles have a more extended basis of popular support, greater power of action, and more concentrated control at the steering wheel. Traffic signals, and a traffic court, have been provided. But the roadway, tires, and shock absorbers do not seem adequate to furnish complete smoothness of motion; and some vehicles show signs of serious internal difficulties. The rules of the road have not yet been fully formulated; some accidents have occurred, others have been narrowly averted, and more serious and more general collisions are still possible.

The analysis and interpretation of political phenomena during this period has not been limited to contemporary events; and it may be worth noting some results of studies in earlier periods. Anthropologists and ethnologists have added much

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to the knowledge of primitive stages of social development, through the discovery and study of "fossil" remains of prehistoric civilization and of primitive peoples. Investigations of buried cities have made more definite the extent and nature of early political and legal institutions to the time of Hamurabi and the Sumerians.[2] Study of early Asiatic writers has disclosed the germs of laissez faire and socialism, and the right of revolution, in the ancient Chinese classics, and a treatise on the art, if not the science, of public administration in India at the time of Aristotle.[3] The period of the older empires—lethargic political dinosaurs (the prototypes of Hobbes' Leviathan)—may well be called the true middle ages, the Mesozoic period, of political development. The warm-blooded, humanistic, and later humanitarian, state first emerges into view with the small Greek city-states, submerged in the glacial period of the Dark Ages, to reappear in the Renaissance.

During the present century increased attention has been given, not only to the social and political institutions and life of the Renaissance, but to the political theories and interpretations of that time,[4] and these have been accepted and applied to present-day conditions by some recent writers. Indeed the most notable contribution to the discussion of fundamental political principles in the early years of the present century was the criticism of the doctrine of sovereignty by such writers as Duguit and Laski, whose views seem to be in accord with the loosely organized political arrangements of the Renaissance. The school of pragmatists in general philosophy aided this tendency, which still influences the discussions of the present time.

But philosophical interpretations of political tendencies during the last decade, like the trend of political events, indicate the operation of conflicting factors. Even Mr. Laski, in his *Grammar of Politics,* while adhering to the ethical criticism

[2] C. L. Woolley, *The Sumerians; The Code of Hamurabi,* trans. by R. F. Harper (1904).

[3] W. S. Pott, *Chinese Political Philosophy* (1925); Kuo-Cheng Wu, *Ancient*

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of sovereignty, admits the legal doctrine, and in his discussion of governmental organization he is not willing to endorse any legal limitation on the legal sovereignty of the British Parliament.

The nineteenth century was notable for advances in the physical and biological sciences; and the results of extensive, systematic, and intensive research in these fields in the formulation of comprehensive and supposedly immutable laws and principles so far surpassed the efforts of students of political and social movements to explain the complex variety of their phenomena by simple and lasting principles that the term scientific has been largely appropriated by the former. Not only the foundations, but the main superstructure, of these sciences had been built, and future developments were looked for mainly in working out the finer embellishments. In physics, it was said that its future lay beyond the sixth decimal point.

But in the new century the foundations of the older physics have been undermined; and along with new discoveries and applications of vast practical importance, the former certainty of absolute laws has given way to new views of workable formulas based on statistical averages, with the principle of indeterminacy and uncertainty as to the most fundamental data. As Eddington has said, the latest conception of the structure of the atom is little more definite than the nonsense verses of Jabberwocky:[5]

"The slithy toves
Did gyre and gimble in the wabe."

Even in the last century, however, some scientists had a realization of the difficulties of absolute rules, and some appre-

Chinese Political Theories (1928); Kautilya's *Arthasastra*, trans. by R. Shamanasty (1915), B. K. Sarkar, *Political Institutions and Theories of the Hindus* (1922); U. Ghosal, *History of Hindu Political Theories* (1923).

[4] R. W. and A. J. Carlyle, *History of Medieval Political Theory in the West* (1902 ff); Otto F. Gierke, *Political Theories of the Middle Ages*, trans. by F. W. Maitland (1900); F. J. C. Hearnshaw, ed., *Social and Political Ideas of Some Great Medieval Thinkers* (1923).

[5] A. S. Eddington, *The Nature of the Physical World*, p. 291.

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ciation of the complexities of their problems, which have a resemblance and an application to those of political and social phenomena. In my undergraduate days, Professor Shaler set forth the view that a plexus of factors must be considered to account for the formation of glaciers, as it must for most social happenings; and that tremendous alterations in the physical world might result from slight changes in conditions at critical points, as by a change in temperature from just below to just above the freezing point of water. William James made an earnest plea for the word "some," which those fond of sweeping universals are apt to overlook. He recognized the limitations in the method of analysis, and saw that human experience was not merely an aggregate of distinct sensations, but a fluctuating whole that was more than the sum of its parts—anticipating, in part at least, the ideas of the present day Gestalt psychologists. Organic chemistry illustrates the immense variety of manifold combinations possible from a limited number of elements. The student of political affairs may well keep in mind the complexities of his problems when asked for a simple solution.

The interaction of complex, and often conflicting, forces has many applications. More than fifty years ago, Bagehot noted as the underlying conditions of social progress the opposing principles of custom and novelty, of stability and change.[6] The same combination may be seen in the factors of heredity and variations which form the basis of biological evolution, in the economic doctrine of the equilibrium of supply and demand, and, as shown by Professor Dewey, in the elements of habit and impulse in the development of human character and conduct. A few years ago, the president of the American Historical Association named as the first two of the general laws of history the law of continuity and the law of mutability.[7]

More general recognition of this paradox in the field of political discussion might open the way to a reconciliation of

[6] "Politics and Science," 18 *Scientific Monthly* (Jan., 1924).
[7] *American Historical Review* (Jan., 1924).

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opposing forces. Bryce's analysis of the opposing claims of liberty and law should temper the extreme advocates of freedom and of law enforcement. Early in the century, Professor Dicey noted the dilemma in the problem of liberty of combination. More recently, President Hadley has called attention to the inherent conflict between the ideals of liberty and equality;[8] while Professor Dunning's presidential address traced the long rivalry between these principles in the field of international relations. The trend of political developments in the present century may perhaps be summarized as a combination of despotism and democracy.

Without accepting the extreme views as to the economic interpretation of history and politics, economic principles and considerations have important applications not always recognized. The thesis of Mr. Kales' book on *Unpopular Government,* that the long list of elective officials and numerous elections in this country result in less effective popular control of government, indicates a failure to appreciate the political law of diminishing returns.

On the other hand, the principle of the division of labor has been applied to government in the political doctrine of separation of powers, and extended even beyond that doctrine in the multiplication of governmental agencies; but without a coordinating agency, only inadequately furnished by our present political parties.[9] The recent tendency to displace the two-party system by economic blocs has been criticized as a type of collective bargaining;[10] but the two-party system itself may be considered as a more comprehensive process of collective bargaining.

Machine methods and large-scale production have been applied to politics, not only in the conduct of election campaigns, but in developing a governmental structure which yields quantity production of legislation. But it can hardly be said that

[8] A. T. Hadley, *The Conflict between Liberty and Equality* (1925).
[9] "Separation of Powers," 21 *Michigan Law Review,* Feb., 1923.
[10] A. T. Hadley, *Economic Problems of Democracy* (1923), pp. 79 ff.

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as yet satisfactory standardized models have been established, while the advantages of highly skilled craftsmen have been lost.

Economic considerations may also throw light on the trend toward the concentration of political power, and the perennial problem of centralization and decentralization. This tendency may be noted in several directions, often discussed without recognizing their interrelation. The supporters of local home rule against state control often fail to see that the growth of cities and the expansion of municipal functions are also important examples of enlarging spheres of public action, which is gaining ground in the movement for regional planning and regional government. The notable increase in the activities of the national government, and the more recent developments in international organization, are parts of the same general tendency. While in all governmental systems, the increase of executive authority is another phase of the same movement.[11]

At the beginning of this century, Professor Dicey called attention to the change in the direction of legislative policy in England from the era of Benthamite individualism during the middle period of the nineteenth century to what he called collectivism during the last third of that century.[12] He explained this change of direction by a shift in public opinion on social problems, but noted also its harmony with the development of large-scale and corporate action in the field of commerce. Other economic factors affecting the situation were the applications of steam power to large-scale manufacturing industry, and the development of rapid communication by telegraph and telephone. These changes in the scope and organization of economic activities account in large part for the increased activities of national governments in international affairs, and in the United States, in the field of interstate commerce, and at same time have been closely related to the stu-

[11] "Administrative Legislation," *Michigan Law Review*, Jan., 1920; C. T. Carr, *Delegated Legislation* (1921); Lord Hewart, *The New Despotism* (1929).

[12] A. V. Dicey, *Law and Public Opinion in England* (1905).

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pendous development of large urban communities and their special problems.

The twentieth century has seen steam power supplemented by hydro-electric power; steamboats and railroads by automobiles and aëroplanes; and telephone and telegraph by the moving and talking pictures and the radio. The old areas of social and economic activities have been enormously expanded; and the large-scale corporation form of management has been extended to all forms of business life, on a steadily expanding scale. A recent French writer has styled American business methods "the high water mark of super-collectivism."[13] But the same tendencies may be seen in other countries toward the organization of economic and social affairs on a national and international basis.

Political centralization is, then, but one aspect of a general movement in all fields of human action.[14] One factor affecting its development, especially in the United States, perhaps even more in the future than in the past, has hardly been realized as yet. The national income tax, with its accepted principles of progressive rates and centralized administration, gives to the central government vastly greater financial resources than those of the states and local governments, and thus provides the means for a still greater expansion of national centralization, of which flood control and farm relief are the latest illustrations.

Another factor which in some respects retards the movement toward political adjustment, and in others forces it into larger units than would otherwise be necessary, is the rigid character of our political and administrative areas. With our present state boundaries, many problems of interstate commerce must be handled by the national government which could be dealt with by state governments if the country could be regrouped into a smaller number of larger states. County

[13] A. Siegfried, *America Comes of Age.*

[14] *Centralization of Administration in New York State.* Columbia University Studies, vol. 9 (1898), ch. 6.

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areas established in the days of mud roads and ox-carts, and difficult to change in most states, are too small for an age of motor cars and concrete highways; and functions which might be performed by larger counties must now be carried on by the states, by private corporations, or not at all. City boundaries are subject to change, but it is becoming increasingly difficult to expand our larger cities to include the whole of the rapidly growing urban regions. There is need for a more thorough appreciation of the fact that governmental areas require a territorial as well as a jurisdictional field of action adapted to the social and economic conditions of the times.

It may be possible in time to secure a more satisfactory arrangement of local areas. In the meantime, there is a notable development of special districts and special authorities, which serve to meet emergency conditions in some fashion, but add to the complexities and difficulties of local government.

In the larger field, any readjustment of state lines seems as yet a distant prospect. Some beginnings have been made in the coöperation of neighboring states on projects of common interest; and this process may well be encouraged. There have also been some steps taken by the national government in the direction of administrative decentralization, which might be further developed as a counterpoise to the growing legislative centralization. State officials could be more largely used in the administration of national laws, and the policy of grants-in-aid applied to secure more active coöperation between state and national officials. Various agencies of the national government have found it convenient to divide the country into a limited number of large sectional areas, as the ten judicial circuits, the transportation districts of the Interstate Commerce Commission, the federal reserve bank districts, and the federal land bank districts. But as yet these districts have been formed on distinct lines for each purpose. May it not be possible to divide the country into a limited number of such districts for several purposes; and for the national government to establish in such districts advisory councils,

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chosen on functional lines, which might assist the administrative officials? By such means a better equilibrium might be secured between the forces of centralization and decentralization.

But the balance will not be a permanent status, nor even like the swing of a pendulum, alternating in equal movements from a fixed center. The variations of political and social forces have more resemblance to the flow and ebb of the tides, where the normal daily rise and fall is surpassed each month, and still more at the equinoctial periods; while the record of centuries may show a continuing advance or recession. Or again, they have been compared to a spiral, where each return of a cycle is in a different plane—but whether higher or lower will depend on the viewpoint of the observer.

An important field of work for the members of this Association is the investigation of such tendencies and problems. This calls for intensive inquiry into the facts of the situation, with the impartial attitude of the physical scientist. It also calls for critical analysis of the data, and for insight and imagination to determine the factors that explain the results. This will involve the presentation of hypotheses and theories to be tested and accepted only so far as they satisfy the conditions.

As to the final outcome of political development, we may indulge in speculations for the distant future with as much, and no more, certainty than the physical and biological scientists. If, like Henry Adams, we accept the second law of thermodynamics, we will follow the astronomers, who looking backward and forward for millions of millions of years, can find no beginning, and at last the ultimate annihilation of energy,[15] and will agree with Spengler as to the permanent decline of western civilization. But we may also find a more hopeful view in Millikan's theory of cosmic rays, as evidence of a continual creation of energy by the formation of atoms, or in the biological doctrine of progressive evolution, in the light of Bergson's philosophy of creative evolution.

[15] James Jeans, *The Universe Around Us* (1929).

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THE PRAGMATIC ELECTORATE

FRANCIS G. WILSON
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I. DEMOCRATIC CITIZENSHIP

Political science has dealt too long, on the one hand, with the ideal, and, on the other hand, with the abnormal and perverted features of political society, rather than with the normal and the eventual. Our theory of ideal democracy[1] is perhaps more suited to the Greek and Roman city-state, with participation as the test of the good citizen.[2] Representation has been heralded as the device which makes the ancient ideal possible on a large scale. But in practice it has been found that the enormous expansion of the public, i.e., the body of persons who have the right of participation, has made the problem far more complex than was at first thought possible. Greek ideals of education and coercion of the citizen body toward general improvement have been carried out with greater success, and our statute books reflect a Hobbesian attitude toward human nature which is true only in part. The political philosophy of democracy must be built on the facts of political life.

Shall we break with the Greek and Roman ideal of the participation of the citizen group in the affairs of the state? It is true that the present attitude is a revised form of the demo-

[1] Democracy may mean either a form of government or a social philosophy. The older theory has generally limited it to a form of government. This is clearly shown in the writings of Bryce and Maine. It seems we must think of it more in terms of a general appreciation of human personality, or as a social philosophy underlying the modern constitutional state, though as a political process it may be viewed as a form of government. Pragmatism is here taken to mean the application of the doctrine of consequences to political concepts. The true concept is the workable one. Hence, pragmatism is for politics more than a theory of truth, or a method of ascertaining truth; it becomes, in fact, the justification of a program in which the ideal is tested by the actual.

[2] Cf. Harrington's "Oceana," in *Ideal Commonwealths* (New York, 1901), p. 239, for an early modern statement of this view.

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cratic ideal of antiquity, but with a different interpretation of the meaning of citizenship. All democratic governments must finally rest on some theory of the suffrage; any study of the fact of non-voting must be based on a theory of the suffrage likewise. With the expansion of the theory of citizenship to include all subjects, a corresponding theory of limited participation was developed—no doubt a product of the Middle Ages. The totality of citizens was distrusted, and some test of participation had to be devised. Such was the origin of religious tests for political participation; such was the origin of the distinction between the right to vote and the fact of citizenship.

With the broadening of the franchise in the nineteenth century, the older ideals have come to life again, and in a general way the theory now is that a citizen should vote. Eligibility to vote, as defined by statute, does not logically carry with it the duty to vote, but those who favored or opposed a general franchise assumed that the people would vote. The fact remains that our government was organized during a period of mistrust of the ordinary citizen; it was not designed along the ideals of antiquity, but rather against the harmonizing of political participation and citizenship. The eighteenth-century French distinction between active and passive citizenship, found in the constitution of 1791, is implied in the colonial and early state restrictions on the right to vote. The extreme democratic sentiments developed during the nineteenth century, however,—whether because of frontier influence or of a general world democratic movement does not matter—take a very different position: citizenship, in a real sense, means active participation in politics; it implies very much the same definition as was given by Aristotle.[3]

[3] The conservative contemporary theory is stated very well in W. B. Munro, *The Government of the United States* (New York, 1925), pp. 101-113. Following Thomas M. Cooley, Munro argues the connection between the vote and public welfare; the vote is a privilege given for community benefit, therefore there is an obligation to exercise it. Of course, the qualifications for voting must be laid down by the state. The restrictions imposed are obviously for general welfare,

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This paper is an evaluation of these competing claims as to the nature of democratic citizenship. Necessary to it is a theory of the franchise; and the suggestion is made that ultimate participation is more important than constant participation; that the vitality of democracy comes from a right of protest, of self-protection, not from the fact of participation; that the right to vote is not an office, a public trust, or a natural right, but a privilege granted in democracies for self-protection of the individual; that the vote is in reality a check on those who govern; that this is in accord with the general ethical view of the value of human personality; and that such a set of propositions is consistent with a pragmatic view of the state, and with such practical knowledge of the democratic process as we possess.

In determining the nature of modern democracy, pragmatic tests are more valuable than absolute ones. It is a fact that most men do not vote unless they feel that they have something at stake; it is probably a fact that few men vote simply because they feel that it is their duty to do so. Perhaps it is possible to learn by experience, but many civic organizations do not. Count over the innumerable elections in which only a portion of the qualified electorate has voted, and on the sheer extensiveness of our political experience we may as well give up as a lost ideal the notion that all persons qualified will or should vote. It is possible that in the reconstruction of the democratic process we will reckon on a fourth or a half of the possible electorate actually voting. Could this not be considered the normal, even ideal, condition in democracies? If such an interpretation were accepted, our whole political life would immediately become more real; the wasted energies directed to-

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but these are considered to be exceptions to the general rule that adult citizens, under proper conditions, should be able to vote. It is doubtful whether the privilege of voting was established on a purely general welfare theory. More probably the doctrine of equality and nineteenth-century individualism brought it about. Those who have opposed suffrage extension have undoubtedly made a wide use of the general welfare theory.

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ward getting a naturally indifferent electorate to vote might be turned to other and more fruitful channels.

II. THE THEORY OF NON-VOTING

It seems that such an interpretation of the process of democracy may be defended on theoretical as well as practical grounds. An essential part of this notion of the democratic process is, however, that the right of the masses who do not vote should not be taken away. Perhaps once in ten years a citizen may feel a keen interest in a particular public question. He will have an interest in the problem according as he interprets his own relation to his government; and his right of participation, as an habitual member of the inactive electorate, should not be taken from him. It is the ultimate right of protest on the part of the citizen that makes democracy a living force, and not the individual's actual and continued participation.

Let us examine the grounds for this position, without making too great a distinction between theory and practice in democracy. To begin with, the structure and ideals of modern society go counter to the notion of all persons participating in the process of democracy. It is a far cry back to the more simple days when interests in life, aside from the problem of subsistence, were few. Today we accept the settlement which has been reached in the rule of law, in constitutional government, and the responsibility of public officials for their acts. Not only has the problem of governmental structure been settled to the satisfaction of most persons, but the complexity of modern relationships gives men much to think about besides political or religious matters. The modern citizen's mind is filled with the echoes of an industrial society. Only when government intrudes beyond the sphere in which his interests dictate that it should work is he aroused. This may be once in a life-time, or every four years. The field of art in all its complexity, the talkies, the radio, the newspaper carrying the infinite stimulations which society has created, the wealth of

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books and magazines—all lead natural interest away from the somber realities of government. Yet government must work, and it must justify itself by the service it performs, not upon an abstraction which may be called perfect democracy. The very nature of modern society demands that we recognize once and for all that, normally, only a few will participate in the conduct and direction of public affairs. As Bryce remarked that there has never been anything but the government of the few, so we might add that the electorate in the active sense will always be the few.[4]

The nature of public opinion justifies the position taken with regard to the democratic process. An immediate and challenging field, indeed, presents itself in the nature of opinion. Is opinion permanent or constantly changing? We may follow the modern prophet of mutability, Lippmann, or a more ancient teacher of permanency in opinion, John Locke. In Section 223 of the *Second Treatise of Civil Government,* the latter remarks: "To this perhaps it will be said, that the people being ignorant and always discontented, to lay the foundation of government in the unsteady opinion and uncertain humor of the people, is to expose it to certain ruin: And no government will be able long to subsist, if the people may set up a new legislative whenever they take offence at the old one. To this I answer, quite the contrary. People are not so easily got out of their old forms as some are apt to suggest. They are hardly

[4] A recent book by Charles Merz (*The Great American Band Wagon,* New York, 1928) suggests by implication that the really remarkable fact may be that there is as much interest in politics as there is; for politics offers no exciting escape from the realities of life as do a thousand other things, such as the radio, the automobile, and the tabloid. Cf. A. R. Lord, *The Principles of Politics* (Oxford, 1921), p. 161. "The more frequently elections are held, the less interesting and important they appear to be, and the less likely is a busy man to go out of his way to record a vote. Private affairs in populous and prosperous communities have assumed an abnormal and disproportionate importance; and amongst those who are immersed in commercial enterprises, political duties, except where they directly affect private businesses, are apt to be resented as an intrusion upon and an interruption of the normal course of life. The professional and the economically influential classes tend more and more to ask for government without trouble."

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to be prevailed with to amend the acknowledged faults in the frame they have been accustomed to."

If this is the nature of opinion, does it need to be expressed and re-expressed in constantly recurring elections? Suppose the government is following without deviation the fundamental views of most of the electorate. Should the electorate reaffirm their views every two years? Fundamentally, Locke is correct. Ancient and modern study of social attitudes demonstrates that political views are long in development and firm in their constancy. Public opinion should generally be associated by its very nature with the fundamentals of government, not with superficial, pendulary oscillations. There is, in fact, no more easy misconstruction of public opinion than that which arises from the shift of views on personalities and policies of passing interest. Public opinion is not formed today, but through many yesterdays. It swings back and forth, to be sure, but only in a narrow ambit. It is natural for the mass of men, conservative in their political views and appreciations, to accept government so long as government obeys the fundamental currents of opinion. What difference does it make in the average of public personalities if one man or another is chosen, so long as the government is thus conducted? Men, and therefore governments, react in patterns.[5]

Constitutional government, while originally designed to prevent the balder forms of tyranny, has enabled government to provide an eventual control of misconduct through its internal machinery, and has given politics a stability which makes it conform with the essential contents of public opinion. Americans are fond of the phrase "a government of laws and not of men." They recognize the constitutional structure as fundamental, and so long as it is not impaired they do not worry. Constitutionalism provides grooves along which all public officials, whether efficient or inefficient, must move. For the sake

[5] Cf. A. V. Dicey, *Law and Opinion in England* (London, 1920), p. 19; also H. S. Maine, *Popular Government* (New York, 1886), pp. 127ff, stressing the essentially conservative character of public opinion.

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of security, we have hampered the genius in politics in order to add strength to the weak and the mediocre. A government of laws makes the recurring expression of opinion less necessary than in a government of men with democratic leanings. It may be supposed that there is no government save that of men. Men control, but it is Cæsarism according to law. Perhaps Hobbes deserves as much credit as any one for pointing out that men in society are largely equal in their overt political capacities. Subjective elements loom large at given times, but in the long run men govern as equals in ability. This may be noted as the great justification for the rule of law and the restrictions which it places on the rulers and the ruled alike. Our political structure depends upon fundamental opinions expressed in the rule of the constitution, and not upon the free play of individual genius. Thus the very nature of our government makes the continuous expression of opinion less necessary. We have so organized government that people may place reasonable trust in it, even if this means that mistrust may limit it. The structure of constitutional government makes it possible for a small minority, controlled by fundamentals of opinion expressed in the constitution, to direct public affairs satisfactorily.[6]

Let us consider the function of the judiciary in the democratic state. Upon what do political and civil rights depend? Do they depend on the continuous consent, expressed in recurring elections, of the electorate that such rights shall be preserved? They depend, rather, on one great expression of popular belief embodied in the written constitution. A constitution is more than a system of limitations on government; it is the synthesis of the public opinion of a generation. State constitutions are growing at present along economic lines. Fundamental opinion is slowly changing and finding a lasting expres-

[6] Cf. J. Allen Smith, *The Spirit of American Government* A*New York,* VTVEQ, pp. 209ff, for an adverse criticism of American government on these grounds. Smith contends that the devices in the American Constitution to check ordinary majorities tend to defeat popular will and rob it of vitality, thus diminishing interest in government.

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sion in the constitution as the supreme law of a political unit. The constitution represents the organization of stable opinion, and, so far as the individual citizen shares in these views, he may consider them safely preserved. He need not go to the polls on each election day; his life, liberty, and property are safe in the hands of the government. Active interest does not lead him to participate in public affairs; rather does it lead him away from such participation. Rulers may come and go, but they are bound by law to give reality to the lasting elements of public opinion. It is the judiciary, enforcing the constitutions of the states of the United States, that gives safety and reason to the lethargic policy of the electorate. If an official is dishonest, an effective remedy for the wrongs for which he is responsible is not at the polls, but in impeachment or criminal prosecution. What has the average man to do with this? His opinion, or that of his forebears in which he tacitly concurs, is crystallized and guaranteed in fundamental law. His government is organized to hold his confidence from birth to death. It matters little if civic organizations cry for a full registration, if party workers offer transportation to voting booths, or if other influence is brought to bear upon him; he may rest comparatively assured that the winning organization is bound by law, and that he still has protection under the constitution through the judicial branch of the government. He knows also that if he should need the ballot box it is always there as his residual right of protest. The judiciary, or opinion expressed by other means than the vote, will enforce the rules of the game of politics.[7]

We must re-evaluate the democratic process. An older and unsound theory must go by the board if a pragmatic test is of any value. But democracy as an expression of the value of human personality would not be impaired by a revision

[7] See C. M. Walsh, *The Political Science of John Adams* (New York, 1915), p. 226: "Still, the Constitution . . . . exists. It is the instrument attesting the people's act. It frees them from the need of continual surveillance, which, in fact, is left to the judiciary as the custodian of the people's reserved rights." Cf.

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of the process through which it is expressed. Intelligent citizens who do not vote do not prove by their actions that they do not believe in democracy as a social ideal. By staying away from the polls they set forth anew their belief that constitutional government works, and protest, perhaps unconsciously, their disbelief in the current idea of the democratic process. If a man does not vote, it does not mean that he values his political personality less than do those who vote. He merely sets up a value in competition with the value of the vote. The non-voter would never admit that he has no rights in the government; he is not convinced by mere argument that as a public duty he should vote when he does not feel that it is necessary. Should we not reconstruct our theory to fit this political reality?

Furthermore, we have never completely succumbed to democratic theory. Part of the American concept of public opinion has a tendency to diminish the interest of the voter, since many of the most disturbing political issues have been removed from the immediate theatre of politics and the control of the majority. The rights of the majority have always been limited by the rights of the minority. We are not in reality far from the theory of natural rights, which, through its seventeenth-century spokesman, Locke, contended that men as well as legislatures are bound by the fundamental laws of nature. Rights

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the statement of Marshall, cited in C. E. Martin, *An Introduction to the Study of the American Constitution* (New York, 1928), p. 66. Cf. also M. B. Rosenberry, "Administrative Law and the Constitution," 23 *American Political Science Review*, 38-39: "One of the undesirable results of the constitutional, as opposed to the parliamentary, system is that it engenders in our lawmakers a feeling that they are not directly responsible for the consequences of a law if the law is constitutional. In the public mind the responsibility for bad law is placed upon the courts." It should be observed that the effort to make the naval oil leases of the Harding administration a political issue failed, and that judicial remedies are more effective. The ballot seems to be a highly uncertain weapon against corruption. The so-called "aroused electorate" seldom wins against the party or the machine, and even more seldom twice in succession. A few indictments and sentences to terms in the penitentiary are usually more effective in smashing corrupt rings.

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were put into the Constitution of the United States because they are fundamental; they are not fundamental because they are in the Constitution. Democracy is thus the functional aspect of government limited by nature. Natural and moral law, it is claimed, are far above the concept of public opinion with its pragmatic ethics. The right of public opinion on certain values is the right and liberty of obedience, not of substantive formation. The liberty of public opinion is the acceptance of ideals "whose service is perfect freedom." So the Supreme Court considered in the Insular Decisions, when it spoke of fundamental rights which not even the supreme power of the United States may take away. Republican liberty, it has been believed, is something that not even public opinion can meddle with too much. It has not been long since most men considered the laws of economics as outside the function of the state. But we are beginning to learn, with Mr. Justice Holmes, that, since the Constitution of the United States did not enact the *Social Statics* of Mr. Herbert Spencer, public opinion may construct its own laws of economics.

The prohibitionist does not take the view that public opinion may justly decide against prohibition. The highest and noblest right of public opinion is merely to render homage to the iniquity of drink. Once having recognized this, the function of democracy is over, and the legal and moral absolutism of the state must secure enforcement. It is thus possible for prohibitionists to question the patriotism of those who, under the guise of public opinion, seek to change prohibition legislation. But above all stand the rights of life, liberty, and property against the interference of untaught public opinion. Yet, what more fundamental questions are there in the modern state? If we exclude these questions from public opinion and submit them to the immutable arbitrament of the law, is it remarkable that men do not take the vote as seriously as they might under different circumstances? The patent fact is that these issues have been removed from the scene of active controversy by public opinion itself. They are natural and immutable rights

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because we have not yet reached the stage of natural rights with a changing content. If all these more fundamental issues were brought within the range of current political strife, minorities might feel a justly greater hope for change in the future.[8]

III. THE BALLOT AND THE BALANCE OF POWER

A weighty objection to the position here taken is that a full and complete vote by all qualified persons is essential to preserve the ethical content of our political institutions and to enable the fit to govern. It is asserted that those who do not vote are generally the more capable politically. It may be asserted that such a belief is not proved. There are non-voters, both competent and incompetent, in all classes and groups. It is a mere assumption that those who now hold public office and direct policy or administration are more incompetent than would be the case if all qualified persons voted. The balance of power in politics probably would not be shifted if all groups voted uniformly, since the active electorate would draw strength from the competent and incompetent alike. The defect may be in the organization of government rather than in the electorate. Our political science, from the time of *The Federalist* to the present, has been colored by the notion that good organization of government is essential to secure public confidence and efficiency.[9] We cannot be certain that if all the fit voted any material change would take place in any branch of the government which could not be more adequately secured by proper governmental organization. Woman suffrage has not vindicated the claim that women, being more fit, would purify politics. The woman influence has generally been incor-

[8] See James Bryce, *The American Commonwealth* (New York, 1919), II, Ch. 58, for a discussion of the relation of interest in politics to the type of issues considered, showing in general that American politics is less interesting than European because of the removal of important issues from active political conflict. Bryce does not, however, in this connection emphasize constitutional provisions.

[9] Cf. Henry J. Ford, *Representative Government* (New York, 1924), *passim*, for one of the ablest recent discussions of the importance of the organization of government.

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porated into the party organization when there has been any active interest. If the so-called competent citizen voted more, he would probably vote, not for himself or his kind, but for the same class of officials now found in public office. The great public, it would seem, is more interested in rights than in the adumbration of popular sovereignty.

It is argued that with a wide popular vote of all those who now stay away from the polls the power of the party would be broken, or at least that of the machine. Rather—if the history of politics is of any value—this would probably result, at best, only in the substitution of one machine for another, and perhaps the continuation of the old one. Independency without leadership is not a practicable program, and voters of an independent turn of mind must have leadership to be effective in politics. For this they might turn to the party. Such seems to have been one of the motives behind the movement for the direct primary. But, even so, the sanction of honesty in the individual official is before the courts rather than at the ballot box. At any rate, those who are trying to purify politics by getting more persons to vote should try to organize government so that the confidence of the people is readily given, particularly in local government. Yet it is doubtful whether a thoroughly successful city-manager form of municipal government, or the wide use of experts in government, would or could have any other natural effect than to diminish the interest of the voter in the constantly recurring elections.[10]

Before leaving this problem, it is well to ask if the fit do not really govern. Corruption in politics and the general venality

[10] In a recent article, Professor Munro criticizes civic uplifting campaigns, asserting that the technique employed has not been tested by scientific means, and that much of the money spent is wasted because of the sheer irrelevance of the means employed to the ends desired. Bawling at the voter to come out and vote will neither improve the quality of elective officials nor materially increase the total number of votes cast. "Physics and Politics—An Old Analogy Revised," 22 *American Political Science Review*, 7. The ultimate deductions from his position would lead to conclusions suggested by this paper. But see also an article by the same author, "Is the Slacker Vote a Menace?" 17 *National Municipal Review*, 80-86.

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of local government may be pointed out. This, however, is being changed rapidly, not by an increase in the number of votes cast, but by bettering the organization of government and making more secure the lines of legal and administrative responsibility. Direct responsibility to the people, as in the recall, has proved abortive, and even direct legislation has had little influence. Men have recognized from ancient times, as Beard has shown, that economic forces tend to hold the balance of power. Our current theory is that men who are economically successful display some ability and superior talent, though this may not be a thoroughly safe conclusion. But if we admit that economic interests tend to dominate politics, it is indicative that even if all persons voted, the real character of leadership would not be changed.[11]

Wealth, moreover, is a leader in a long-run sense. The formation of attitudes is going on every day in our public schools, in the press, and by writers of large influence. But all of these agencies of importance are controlled by conservative influences. Leadership tends to become a recognition of the influence of those who have economic power in the present order of society. A large, active electorate would have little influence in changing this condition. As has been stressed, the right of protest embodied in a broad franchise will always permit a real opposition from the masses to be felt. The populist movement of the nineties was no doubt defeated by the natural leaders of society—if one may borrow an idea from Burke.

IV. DEMOCRATIC MECHANICS

It has been realized of late that the mechanical problems involved in securing a large vote are not simple. We have depended too long on the simple formula of stressing duty to government. It has never worked, and now we are in a fair way to realize that such a formula will never be successful. As Merriam and Gosnell have shown in *Non-Voting*, general

[11] Cf. C. E. Merriam, H. E. Barnes, and Others, *A History of Political Theories; Recent Times* (New York, 1924), p. 383.

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indifference is not the only cause of the inactive electorate. Some of the causes are physical, e.g., sickness, invalidity, or distance from the polls;[12] others spring from the organization of industry under which men fear the loss of profits or wages; many of the causes come from defective organization of democracy, such as congested polling places, an unintelligibly long ballot, restrictive registration arrangements, or a discouraging frequency of elections, which obliges many intelligent citizens to face popular government with a deep sense of frustration. Still other causes are to be discovered in disbelief in the ability of the people to control, and in a conviction of the thorough and final corruption of politics. Where education along civic lines will help, the state should make it available to the voter, but where other causes are concerned a more perfect organization of democracy would aid. Men, however, often do not feel the need to vote. Government wends its way without serious mishap, and it is a real conviction, which mere talk will not down, that one vote does not make much difference. Abstractly, the single vote is important. But the average man, busy in a work-a-day world, views himself atomistically; he is the real unit that his consciousness knows, and his own interests loom largest in his thoughts. If men really wanted to vote, an imperfect organization of democracy would not greatly deter them. To organize democracy perfectly would still leave the enormous problem of the inactive electorate.

V. THE DECLINE OF THE BALLOT

Up to this point, the problem of the nature of democracy has been considered from the viewpoint of controlling funda-

[12] See *The Federalist* (Ford's edition), No. 61 (60), p. 405. The framers of the Constitution seemed to appreciate the inevitability of indifference in the electorate. See 69th Cong., 1st Sess., House Doc. 398, p. 192. Here Madison reports Mr. Jennifer as observing that "too great frequency of elections rendered the people indifferent to them." Madison also reports Mr. Gerry as saying (*ibid.*, p. 442): "The election of the Executive Magistrate will be considered as of vast importance and will excite great earnestness."

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mentals in politics. Should all men vote on questions of policy? Or are there really important matters of policy to be considered in the ordinary election? One may easily minimize the importance of election issues. Enough of our theory of democracy has been suggested to show that often the fundamental principles behind an issue have already been settled by general currents of opinion embodied in constitutional provisions, or that the immediate solution is so technical that only thorough students can apply it. The paucity of real issues between the two major parties may be explained in part by this, though the need of having a unified national organization to control the electoral college might explain the two parties themselves. We have arrived at a fundamental question. If it could be shown that the vote is the best and most important way of ascertaining public opinion where it is not already known or determined, it might conceivably be argued that all qualified voters with an instructed opinion should cast a ballot. It must be admitted that there are not many issues upon which there is no readily applicable constitutional or traditional principle which leaders could apply to the satisfaction of all those really interested. The prohibition of child labor by congressional legislation was demanded on humanitarian grounds, but the principle behind its unconstitutionality was already in existence. When an amendment was submitted later, a more real issue was raised; but an acute observer might have ventured the opinion that most of the people had no very decided opinions, since individually they had no very decided interests involved of which they were conscious. The amendment was rejected, without formal submission to the people, on the basis of a long accepted principle, i.e., the prevention of federal encroachments on the states. The more fundamental opinion of the people was followed in the rejection of the amendment.

This leads to a further consideration. If the settled principles are not available as a guide, are there other means of determining opinion than a resort to the ballot box? A mem-

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ber of the legislature knows, in general, what the leaders of his district think the people think. He has in this a fairly accurate guide. As Burke argued, the people must be thought of in connection with their natural leaders. It is no far cry to say that, if organized groups in the community want something and the leaders of one kind and another agree, there is as effective an expression of opinion as if a popular election were held forthwith to determine public sentiment. The influence of the press has already been noted, and this, along with the formation of attitudes by influential individuals and by belligerent groups, and even the disregard of laws, should be given equal shrift with the vote in the modern democratic process. It is an old and unworkable ideal of democracy which connects public opinion too intimately with the ballot box. The ballot box is becoming, in this age of innumerable social contacts and channels of expression, a less and less significant fact. The fundamental idea involved is that opinion on passing matters of policy and personality is *formed,* and the process of formation radiates from points of interest, whether ethical or material. In other words, it must be admitted that the opinion of those who have no specific interest in unforeseen issues is formed by those who have a case to present, and the opinions formed are usually conservatively in harmony with older opinions. To argue against this situation is merely to chide human nature, and such an argument has no place in the philosophy of democracy or in a scientific evaluation of its process.

In the federal form of government, as Bryce indicated, there is more chance for political experiment in the smaller units of government. Each experiment in a small unit is indicative of a drift in opinion. Members of a state legislature do not have to go back to the people to determine majority opinion on the liquor question when two-thirds of the counties in the state are dry by local option. Members of Congress do not have to await a national election to determine sentiment on prohibition when a large number of the states are dry. State legislatures in ratifying an amendment give an accurate indication

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of opinion in much the same way that a national referendum might. The competition of policies, and even of personalities, as shown by the national convention system, is not always for the ballot box, and no injustice to what active party opinion exists is done thereby. The radio may come to be of importance in the formation of opinion on current issues of policy and personality, and to know radio policy (if any) will, within limits, constitute a knowledge of public opinion.[13]

What is the future of democracy if we admit that in its process the inactive electorate must be assumed as a permanent factor? A pragmatic interpretation and the scientific method must be used in investigating modern democracy. If there are assumptions which have never worked, and which have been given adequate trial, it is not undermining the ideals of democracy as a social purpose to change the standard of its process. Democracy is a more vital principle in government when it rests on the ultimate right of protest of all qualified voters, and not upon the continuous participation of each in the affairs of government. The inactive electorate is, nevertheless, the real electorate. Its opinions are crystallized in fundamental law and color the operation of the rule of law, which is the heart of constitutional government. Good citizenship should be tested by attitude and intention with regard to social order, and not by political participation. Moreover, it is a legitimate extension of the representative principle to say that the active electorate is, in a true sense, the representative of the inactive electorate. An additional step between the ruled and the rulers is recognized in this revision of the democratic process.

As the authors of *The Federalist* knew, the balancing of interests is one of the prime functions of government. Modern pluralism comes ultimately to a compromise theory of government. It is interests that count in the long run in politics, and it is interests that must seek a real expression, not opinions

[13] See C. E. Merriam, *American Political Ideas, 1865-1917* (New York, 1920), pp. 305ff, for a discussion of the influence of non-official agencies in expressing public opinion on matters of policy.

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or ideals abstracted from their setting among interests. A working theory of government must assume that men generally know their own interests. It is only when an interest as conceived by an individual is thwarted by the state that he feels the need of a right of protest, and it is here that the right to vote may become real. Nor can we assume without danger that the state should undertake the education of the individual along the lines of his real interests. The state must surely remember something of the code of individualism, no matter how far along the road of collectivism it may travel. Interests are real, not mere fictions. If they are vital in given instances, they will develop their leaders and means of expression. Interests should have free access to the ear of the state; their representatives should be recognized in order that they may write boldly across the page of the statute book. The competition and compromise of interests give a pragmatic test of public interest which the arm of supreme legal will may reach out to protect. And it must be recognized that those whose interests have been assaulted will use the ballot box, among other means, to voice their protest. To say that interests are partial and biased is to say no less of opinion.[14]

VI. BASES OF POLITICAL INTEREST

On psychological grounds it may be said that there must be excitement and conflict before there will be wide public inter-

[14] See J. C. Calhoun, "A Disquisition on Government," *Works*, I, pp. 75-76. Calhoun associates the press with the right of suffrage. Both are organs of public opinion, but the press aids more in forming opinion, while the suffrage is a more authentic expression of it. But what is called public opinion, instead of being the united opinion of the whole community, is usually the opinion or voice of the strongest interest or combination of interests; and not infrequently, of a small, but energetic and active, portion of the whole. Cf. G. C. Havenner, "Voteless Washington Expresses Itself," 17 *National Municipal Review*, 326; E. P. Herring, *Group Representation Before Congress* (Baltimore, 1929), p. 2, *passim;* W. Y. Elliott, *The Pragmatic Revolt in Politics* (New York, 1928), p. 13. Elliott says: "The experience of men holds the great state to be alien to their daily control, remote, gigantic, capable of being moved only by the pressure of great interest groups, in which the individual is almost as much lost as he is in the state."

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est. If elections offer no real conflict, great numbers of the electorate will not care to vote. One would think that the election of a president of the United States would always present such a conflict situation, but it is obvious, since ordinarily about one-half of the possible electorate votes in such elections, that, apart from the many and complicated physical and legal causes for non-voting, many persons think it does not matter greatly which party or person wins. Public issues, in the United States, tend to arouse less interest than in former times, or than in other countries where the parliamentary system without judicial control prevails. Psychological excitement produced by opposition and conflict between sets of interests is the final physical or emotional basis of public interest. When mental attitudes, or habitual pattern reactions, come in contact with vigorous opposition, it is certain that excitement or interest will be aroused, and within limits a wide vote obtained. The persistence, or even existence, of tradition shows the slow growth of such reaction types. A traditional point of view that has been maintained for a hundred years is not to be changed in a month. When such a reaction type as a tradition has been secured in the constitutional structure, there is less hope of opposition arousing a wide vote than would be the case if the maintenance of the tradition depended on each legislative body. Habit and tradition are fundamentals in opinion, and they are the secure basis of intense interest.

But the plain fact is that in American politics one is not at all certain that an attack on tradition will excite the electorate. Perhaps a wide uniformity in fundamentals in politics has much to do with the state of American opinion regarding the need to vote. Sectionalisms are tending to disappear. Many channels of communication are breaking down differences, and the man in San Francisco is little different politically from the man in New York. The general agreement of the American people that socialism is a menace to the country, or that bolshevism should not be tolerated, shows the conformity of all sections on certain political views of a fundamental character.

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The more agreement there is on fundamentals, the less need there is to vote. Psychologically, we must feel that opposition to our habit reactions is real before we enter the arena to defend them. Indeed, if politics is largely non-rational, as Mr. Graham Wallas once led us to believe, it is a tribute to the rational character of the citizen that he is little interested in voting.[15]

Party spoils was one of the old incentives to interest in politics. While it is dangerous to idealize the past, one might say that if interest in elections is the fundamental desideratum, a return to the spoils system would bring out a larger vote. The winning of an election by a party would mean something tangible in the fruits which the spoils system might offer. But the merit system has robbed us of this incentive to bitter party controversy, and party controversy, to be real, must be bitter. Men must actually be angry at the opposition party in order to fight it. A keynote speech may be just a keynote speech today, a harking back to pleasant traditions and memories of the party, while in times past the spoils of party war no doubt gave it a ring of sincerity and importance which the average voter today no longer feels. But he would be a foolhardy citizen who would advocate the return of the spoils system in order to stimulate party spirit. With less of spoils, there is less of partisanship. Where there is partisanship, it will express itself in the vote. Officials chosen by merit are less apt to be corrupt, and corruption is often a good war-cry to arouse the electorate. Incidentally, the development of a permanent body of officials constitutes an interest group in the state which will, in some ways, make up for the lack of interest resulting from the abolition of the spoils system.[16]

VII. CONCLUSION

In conclusion, this investigation has suggested that the meaning of democracy depends on a theory of the functions

[15] See Bryce, *op. cit.*, II, Ch. 58.

[16] Cf. Léon Duguit, *Law in the Modern State*, tr. by H. and F. Laski (New

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of citizenship; and that experience has suggested a revival of the early modern distinction between citizenship and participation in government because of the complexity of modern society, the permanent nature of public opinion, the security of opinion in constitutional government with judicial review and a limited majority, the uncertain results of increased voting either in improving the character of public officials or in influencing the power of party organization, the non-mechanical nature of the problem of non-voting, the decline of the ballot as a means of expressing public opinion, particularly where interests are concerned, and the unimaginative and unstimulating character of political contests.

Democracy is not radical. Whether because opinion is formed essentially by leadership or because human beings prefer conservative government, it is true, as the late Professor Dicey pointed out, that democratic history disproves the notion that democratic governments are radical, or even progressive. The masses upon whom modern democracy rests have been in turn the supporters of theocracy, absolutism, feudalism, monarchy by divine right, democratic monarchy, and democratic republicanism. It is asking too much of the peaceful citizen, interested chiefly in an already assured public order and security, to be continually disturbed about the competition of shading policies and law-bound public personalities. Occasions do, however, normally arise in the life of the individual when he feels an interest in directing policy and choosing public officers.[17] He may cherish his prejudices; but that is no sin.

York, 1919), p. xii; also C. E. Merriam, *American Political Ideas, 1865-1917*, p. 277, for a similar position taken by Wendell Phillips.

[17] As indicated by the increased vote, the presidential election of 1928 was undoubtedly such a juncture in the lives of a large number of American electors. Cf. P. L. Ford, *Pamphlets on the Constitution of the United States* (Brooklyn, 1888), "Address by Melancthon Smith," p. 99: "But when a government is adopted that promises to effect this [union], we are to expect the ardour of many, yea, of most people, will be abated. . . . . Besides, the human mind cannot continue intensely engaged for any great length of time upon one object. As after a storm, a calm generally succeeds, so after the minds of a people have been ardently employed upon a subject, especially upon that of government, we com-

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Democracy is conservative, and it moves in the accepted channels prescribed by the prejudices of the citizen body. We have absorbed democracy as a philosophy of political authority, but historically the safeguard of democracy as a process of government has been in the rule of law rather than in the extensiveness of popular participation in government.

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monly find that they become cool and inattentive. . . . .'' See *ibid.*, ''Remarks by Alexander Contee Hanson,'' p. 249: ''To acquit themselves, like men, when visible danger assails; and, when it is repelled, to sink like savages into indolence, is said to be characteristic of Americans.''

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First Session of the Seventy-first Congress[1] (April 15, 1929, to November 22, 1929[2]). Almost the last word said in the Senate before the adjournment of the special session was a remonstrance from the chair. "No one in the gallery has a right to laugh," said the Vice-President, "and the occupants of the galleries will be in order. That includes the press gallery." It has been easy to laugh. Seldom, however, has a single session of Congress held greater interest for the observer of social forces. Seldom has the salutary rôle of the Senate in our present political complex been more convincingly demonstrated.

Membership. The general election of 1928 seated 268 Republicans, 166 Democrats, and one Farmer Labor member. Three of the four vacancies that developed before the new Congress convened were on the Democratic side.[3] At the opening of the special session, the Republican majority was 103, compared with majorities of 39, 60, 15, 167, and 39 in the Congresses elected in 1926, 1924, 1922, 1920, and 1918, respectively. Even in the more nearly poised, less regimented Senate, the weight of the majority seemed to afford a considerable margin of safety, with 55 Republicans (not including a junior senator from Pennsylvania[4]) listed in opposition to 39 Democrats and one Farmer Labor member.[5]

[1] For notes on the 70th Congress, see this *Review*, vol. 22, p. 650, and vol. 23, p. 364. For notes on the 69th Congress, see vol. 20, p. 604, and vol. 21, p. 297. For earlier notes, prepared by Lindsay Rogers, see vol. 13, p. 257; 14, pp. 74, 659; 15, p. 366; 16, p. 41; 18, p. 79; 19, p. 761.

[2] Regarding the special session of the Senate on March 4 and 5, 1929, see p. 57 below.

[3] Of the seven women in the 71st Congress, four (Rogers, Mass., Kahn, Calif., Langley, Ky., Republicans, and Oldfield, Ark., Democrat) were originally elected to take their husband's places. This theory of office is not narrowly connubial. During the special session, for example, on the death of the Rev. O. J. Kvale of Minnesota, the sole Farmer Labor member, his son, Paul J. Kvale, was chosen in a special election to carry forward his father's purposes. Elements of relationship were interestingly present, though not crucial, in the election of Ruth Hanna McCormick as one of Illinois' representatives at large and of Ruth Bryan Owen as a member of Congress from Florida. Altogether, seven of the members of the House elected in 1928 died before the end of the special session.

[4] The case of William S. Vare was not disposed of in the special session. On September 9, 1929, Senator Norris submitted a resolution (S. Res. 111) denying

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Organization. No innovations in procedure or outcome marked the institution of the party instrumentalities summarized in an attached table.[6] The four preparatory caucuses were held between the first and the fifth of March. The House Republicans continued their organization without material change. Two vacanies in the steering committee had been opened by the retirement of N. J. Sinnott of Oregon, and of W. H. Newton of Minnesota, who resigned to act as one of the President's secretaries. On recommendation of the committee on committees, their places were filled, respectively, by L. H. Hadley of Washington and L. C. Crampton of Michigan. On the Democratic side, the absence of F. J. Garrett, who had withdrawn to run unsuccessfully for the Senate, required the selection of a new floor leader. J. N. Garner of Texas was an obvious choice; he was outranked in length of service among his Democratic associates only by Pou of North Carolina, and he was ranking minority member on the ways and means committee. The former whip, W. A. Oldfield of Arkansas, died shortly after the election, and the position was given to J. McDuffie of Alabama. On April 15, Mr. Longworth was elected speaker by a vote

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him a seat in the Senate. This went over by agreement to the regular session, for consideration on December 3. On December 5, Senator Shortridge filed a report (S. Rept. No. 47) from the committee on privileges and elections regarding the contest brought against Vare by William B. Wilson (the Democratic candidate in 1926) in which, by a committee vote of seven to four, it was held that Vare had been legally elected. On December 6, the Norris resolution was adopted by a vote of 58 (25 Republicans, 32 Democrats, 1 Farmer Labor) to 22 (all Republicans, although three Democrats were announced to be paired against it). The Senate then adopted a resolution (S. Res. 177), offered by Senator Reed of Pennsylvania, declaring that William B. Wilson had not been elected; the division on the latter was 66 to 15 (5 Republicans, 10 Democrats). On December 11, the governor of Pennsylvania appointed Joseph R. Grundy, president of the Pennsylvania Manufacturers' Association, to fill the vacancy. On the following day, a resolution (S. Res. 185) pressed by Senator Nye was referred to the committee on privileges and elections, with the direction that it submit a "report covering the right of Mr. Grundy to his seat in the Senate." Mr. Grundy was then sworn. It was announced that the committee would take up the matter on January 6, 1930.

[6] During the course of the special session, three senators died: T. E. Burton of Ohio, Republican, replaced by the appointment of R. C. McCulloch, Republican; F. E. Warren of Wyoming, Republican, whose seat was to be filled by a special election in January; and L. D. Tyson of Tennessee, Democrat, replaced by W. E. Brock, Democrat.

[6] See p. 40.

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PARTY ORGANIZATION IN THE SEVENTY-FIRST CONGRESS, FIRST SESSION

(Individuals indicated with asterisk held similar positions in 70th Congress)

SENATE

Republican

(Preliminary caucus March 5, 1929)

*Moses, G. H. (N.H.) Pres. Pro tem.; Chairman of Rules Committee; Chairman, Senatorial Campaign Committee.
Watson, J. E. (Ind.) Floor Leader
Jones, W. L. (Wash.) Assistant Leader
Fess, S. D. (Ohio) Whip

Steering Committee
(Committee on Order of Business of Republican Conference)
(Not appointed during special session)

Committee on Committees

*McNary, C. L. (Ore.) Chairman; also virtually an assistant floor leader.
*Smoot, R. (Utah)
*Moses, G. H. (N.H.)
*Reed, D. A. (Pa.)
*Bingham, H. (Conn.)
*Oddie, T. L. (Nev.)
*Nye, G. P. (N.D.)
Capper, A. (Kan.)
Deneen, C. S. (Ill.)

Democratic

(Preliminary caucus March 5, 1929)

*Robinson, J. T. (Ark.) Floor Leader
*Walsh, T. J. (Mont.) Vice Chairman of Conference of Minority and Assistant Leader
Pittman, K. (Nev.) Whip

Steering Committee

*Robinson, J. T. (Ark.)
*Walsh, T. J. (Mont.)
*Pittman, K. (Nev.)
*Swanson, C. A. (Va.)
*Harrison, P. (Miss.)
*Kendrick, J. B. (Wyo.)
*Caraway, T. H. (Ark.)
*Fletcher, D. U. (Fla.)
Walsh, D. I. (Mass.)
Harris, W. J. (Ga.)
King, W. H. (Utah)

HOUSE

(Preliminary caucus March 2, 1929)

*Longworth, N. (Ohio) Speaker
*Tilson, J. Q. (Conn.) Floor Leader
*Vestal, A. H. (Ind.) Whip
*Snell, B. (N.Y.) Chairman of Rules

Steering Committee
(Chosen by Committee on Committees)

*Tilson, J. Q. (Conn.)
*Treadway, A. T. (Mass.)
*Dempsey, S. W. (N.Y.)
*Lehlbach, F. R. (N.J.)
*Darrow, G. P. (Pa.)
*Denison, E. E. (Ill.)
*Hoch, H. (Kan.)
*Johnson, R. C. (S.D.)
Cramton, L. C. (Mich.)
Hadley, L. H. (Wash.)

Committee on Committees

(consisting of one member from each state having Republican representatives, chosen by these, and having voting power proportionate to their number)

(Preliminary caucus March 1, 1929)

Garner, J. N. (Tex.) Floor Leader (also ranking member of the Democratic contingent on the Ways and Means Committee, who, chosen by the caucus, act as a minority committee on committees, subject to caucus ratification)
McDuffie, J. (Ala.) Whip
O'Connell, D. J. (N.Y.) Assistant Whip
Milligan, J. L. (Mo.) Assistant Whip

(No party instrumentality corresponding to the steering committee exists)

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of 254 to 143 cast for Mr. Garner, with the lone Farmer Labor member recording himself "present."

In the Senate, the elevation of Mr. Curtis from the floor to the platform created the possibility of a lively contest for the leadership. James E. Watson of Indiana had been assistant leader. Wesley L. Jones of Washington had been whip. Mr. Jones had been in the Senate seven years longer than Mr. Watson; indeed he was exceeded in point of service only by Senators Warren, Smoot, and Borah, none of whom wished to be leader. Mr. Jones was receptive. But he had not been well. At the conference on March 5, Mr. Watson was given the title of leader. Mr. Jones was styled assistant leader, and Mr. Fess of Ohio was chosen whip.

The cautious observer will wish to delve further in the past before he pronounces Mr. Watson's selection the nadir of leadership. He need have no hesitation, however, in yielding to his vicarious shame for a system that brings an historic and still powerful party to such a choice. Not that it was novel; it merely projected tendencies recently illustrated in the less emulsive Curtis. The especial talent that the new leader consciously cultivates was stated neatly in a so-called newspaper given out by Mr. Watson's headquarters at the Republican National Convention in 1928:[7] "Senator Watson is an amiable, kindly personality who does not stir up animosities but placates them, smoothes them down. Senator Watson well understands that axiom of politics which holds that all political progress is based on compromise. Therefore, the other man's view may possess merit as well as his own, and this the Senator recognizes. Should he be nominated and elected, he will prove an agreeable and popular occupant of the White House, never giving deliberate offense, careful and considerate of the rights and feelings of others. . . . ." Before the session was over it was evident that the exponent of compromise was not well.[8] There was irrespon-

[7] The quotation is from a publication styled "The Labor Digest—a national newspaper published in behalf of labor—vol. 1, no. 1" (*sic*). A good example of Watson's emollient applications was his speech in the Senate on October 31, 1929. The writer is aware that a case can be made for Mr. Watson's selection as leader on the ground that, geographically, he is near the pivot in the balance of the agricultural and industrial elements in his party. His formula for their reconciliation is easy: whatever goes up must come down.

[8] Senator Watson left for Florida at the end of October "to rebuild his shattered health." The floor leadership, so far as there was any, devolved on Senator Jones, with Senator McNary as *de facto* aide. In December, Senator Watson was

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sible talk of a new leader. It would be unfair to Mr. Watson, however, to blame him for the deep disharmony in what passes as the Republican party, or, for that matter, to mistake effects for causes when nature has its way in those loose leagues to capture the presidency which are called national parties in the United States.

In view of the limited purposes of the special session, the election of the full set of standing committees in the House was postponed until December.[9] Only the committees on agriculture and ways and means and three operating committees—rules, enrolled bills, and printing—were formally constituted at the beginning of the session. In the Senate, however, assignments were immediately made to all of the regular committees, and they were elected on April 23.[10] The opening of the regular session, attended by some important vacancies, was made the occasion of a general revision of committee assignments on the Republican side. On November 23, Senator McNary, chairman of the majority committee on committees, was quoted as saying: "I will send a letter to every majority senator early next week, asking each to state how he is satisfied with his present committee assignments and what committees he desires appointment to. These replies will be catalogued and assignments made on the basis of seniority." It was not

quoted as saying that he would not seek to return to the Senate in 1932; it was time, after thirty-six years in public service, to build his "personal fortune."

[9] The committee on appropriations was elected on November 11, consisting, temporarily, only of those of its members in the 70th Congress who were in the new House. On December 3, 1929, the Republican committee on committees (working, in turn, through a sub-committee) began the review of requests and the making of majority assignments. The minority assignments, recommended by the Democratic members of the ways and means committee in their capacity as a party committee on committees, were approved at a minority conference on December 5. In view of the fact that immediate action on emergency radio legislation was desired, assignments to the committee on merchant marine and fisheries were hurried in order that this committee might be elected at once. It was not until December 12 that the others were formally chosen in the House by the adoption of resolutions offered by the majority and minority leaders. As a partial concession to the request of Mr. Garner, voiced in the House on December 2, the membership of the judiciary committee was increased to 23. The ratio of majority and minority members on the important committees was made 14 to 7, instead of 13 to 8, subject to the humane principle (announced by the majority leader on December 2) "that where the Democrats have lost no one from a committee they will retain the same number they now have."

[10] On May 9, the name of the "committee on territories and insular possessions" was changed by resolution to read "committee on territorial and insular affairs."

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until the third week of the regular session that the committee sat down to its task, and the year had ended before it had filled the two troublesome holes in the finance committee caused by the departure of Edge to Paris and Sackett to Berlin.[11]

Procedure. It has been observed that the House leaders restrained the legislative flow[12] by erecting only the committees concerned with farm relief and the tariff. This method was supplemented by the device of recessing. Under a concurrent resolution (S. Conc. Res. 16) agreed to on June 18, Congress broke up on the following day, subject to the provision that the Senate should reconvene on August 19 and the House on September 23. The latter, moreover, was to confine itself to perfunctory meetings on Mondays and Thursdays until October 14. Due to the hard sledding met by the tariff in the Senate, the House never really met again. On October 14, it renewed the terms of the original resolution, providing for momentary bi-weekly meetings until November 11 unless in the discretion of the speaker legislative expediency "should warrant him in designating an earlier date on which the business of the House should be resumed." On November 11, in

[11] In early January the positions were given to Senator LaFollette of Wisconsin and Senator Thomas of Idaho.

[12] In the course of the special session, upwards of 5,000 bills (including pension bills) were introduced in the House, and over 2,000 in the Senate. In the House they were "informally referred" (in the words of the speaker), in the sense that they were tagged by the legislative clerk. The outstanding enactments were Public No. 10, H. R. 1, approved June 15, being the Agricultural Marketing Act, supplemented by Public No. 15, approved June 18, appropriating $150,000,000 of the authorized $500,000,000 revolving fund and $1,150,000 for expenses; and Public No. 13, S. 312, approved June 18, for future decennial censuses and reapportionments. Among a number of minor enactments were: Public Res. No. 1, H. J. Res. 56, approved May 2, reappropriating funds to fight the Mediterranean fruit fly; Public No. 8, H. R. 3548, approved June 13, reappropriating money to aid in rehabilitating flooded farm lands; Public Res. No. 2, H. J. Res. 59, approved May 17, reappropriating funds in aid of storm-stricken vegetable and fruit growers in the Southeast; Public Res. No. 7, H. J. Res. 82, approved June 6, appropriating $39,000,000 to pay amounts due railroads for transporting mails under a Commission order; Public No. 22, S. 669, approved June 25, regarding the suit in connection with the withdrawn Northern Pacific land grants; Public Res. No. 15, H. J. Res. 97, approved June 15, appropriating $3,000,000 for a site for a municipal center in the District; Public No. 11, H. R. 1648, approved June 17, amending sec. 5 of the Second Liberty Loan Act; Public Res. No. 20, H. J. Res. 80, approved Oct. 17, authorizing a postponement in connection with the French debt, later covered by the general settlement act passed in the second session and approved December 18.

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turn, an agreement was made by which the House was held in suspended animation until the end.

Notwithstanding the fact that the tracks were kept clear, the House handled the three major items of the session under special rules. This may have been due to mere habituation, but one suspects more. The farm relief bill (H. R. 1) was reported on April 17. On the following day, a special rule was snapped to the House, a few minutes after its approval by the committee on rules. It provided that general debate should be confined to the bill and should terminate on April 20. It stated further that, after the bill had been read for amendment in committee of the whole under the five-minute rule, the previous question should be considered as ordered on the amended bill, which should advance "to final passage without intervening motion except one motion to recommit." There was some grumbling. A Democratic member who was formerly parliamentarian of the House (Clarence Cannon of Missouri) complained that an important custom was being broken for the first time in years by the provision vesting control of time in general debate in the chairman and ranking minority member of the agricultural committee, since both supported the bill. Other members charged that the rule was intended to make it easier to ward off a vote on the export debentures plan. This may not have been a motive, but the observer is led to assume that the leaders were chary, if not apprehensive, and were not likely to neglect precautionary measures.[13]

The later stages of the farm relief bill occasioned another special rule. Here, again, the purpose seemed to be largely to escape a roll call on the plan of export debentures, which the Senate had meanwhile inserted. It was suggested that the House gesture should be the return of the bill with a tart reminder that the debentures scheme, being a revenue measure, could not originate in the Senate. The Republican steering committee, in consultation with the prospective House conferees, rejected this plan, saying (in the words of Mr. Snell) that if "the House stood on its dignity and insisted on asserting its constitutional rights it would probably provoke a constitutional argument at both ends of the Capitol that would not only last for a few days but might extend into weeks and months." The strategy decided upon was the adoption of a special rule by which disagreement could be in-

[13] The final vote on the passage of the farm relief bill (H. R. 1) in the House on April 25 was 366 to 35 (2 Republicans, 33 Democrats).

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dicated and the bill bundled off to conference without a record vote on debentures. The unique feature of the rule was a preamble which noted that "in the opinion of the House, there is a question as to whether or not section 10 of the amendment of the Senate to R. R. 1 . . . . is an infringement on the rights and privileges of this House;" and which stated that the House was agreeing to a conference "in view of the present legislative situation and the desire of this House to speedily pass legislation affording relief to agriculture, and with the distinct understanding that the action of the House in this instance shall not be deemed to be a precedent so far as the constitutional prerogatives of the House are concerned." The rule (H. Res. 45) was adopted on May 17 by a vote of 249 (235 Republicans, 14 Democrats) to 119 (4 Republicans, 115 Democrats). This careful evasion resulted only in loss of time.

In the end, the House was forced to vote directly on the debentures amendment. The representatives of the Senate, willing enough personally to abandon it, were constrained by the parliamentary situation. Vainly they pleaded that a vote on debentures in the House would immediately clear the air. After days of deadlock, they agreed to a conference report eliminating the debentures plan. The House accepted it on June 7 without the formality of a record vote. The Senate, however, rejected the report on June 11 by a vote of 43 (39 Republicans, 4 Democrats) to 46 (13 Republicans, 32 Democrats, 1 Farmer Labor). The House leaders were thus compelled to move that its conferees "be instructed in conference to insist on striking out of the Senate amendment section 10, the so-called debenture plan." Mr. Tilson said, "I believe that this is the most direct way and perhaps the only way that we can get this bill passed." The motion was supported by 250 members (217 Republicans, 33 Democrats), and opposed by 113 (13 Republicans, 100 Democrats).[14] On June 14, a conference report (identical with that rejected by the Senate three days before) was agreed to by a vote of 74 (47 Republicans, 27 Democrats) to 8 (3 Republicans, 5 Democrats).[15]

[14] The Republicans in opposition were distributed as follows: Wis., 5; Minn., 2; S.D., 2; N.D., 1; Mich., 1; Iowa, 1; Kansas, 1. The Democrats who, in supporting the motion, voted against the debentures plan, were distributed thus: N.Y., 13; Fla., 3; Va., 3; Ohio, 2; Mass., 2; R.I., 1; N.J., 1; W.Va., 1; Ind., 1; Ky. 1; Mo., 1; La., 1; Miss., 1; Ariz., 1; Calif., 1.

[15] The writer will not attempt here to examine the extent to which McNary-Haugenism really triumphed despite the rejection of the equalization fee and

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A special rule was adopted also for the consideration of the dual measure (S. 312, passed by the Senate on May 29) providing for reapportionment and for the census. The rule stated "that general debate shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the gentleman from Connecticut, Mr. Fenn, and the gentleman from Mississippi, Mr. Rankin." This stipulation was unusual only in the sense that the chairman of the committee on the census and its ranking minority member were mentioned by name, inasmuch as the committee had not been formally chosen. The measure in question was destined to provoke something like turbulence. The special order, however, was approved on June 3 almost without debate.

Much more restrictive was the rule adopted for the consideration of the tariff. It was accepted on May 24, the day after the Republican conference approved the use of a special order giving preference to amendments proposed by the committee on ways and means. The tariff bill (H. R. 2667) had been undergoing general debate since May 7, but the crucial stages had just been reached. The rule was sufficiently revealing of the methods of the House organization to warrant an extended quotation. It provided "that general debate on the bill be now closed; that the bill shall be considered for amendment under the 5-minute rule, but committee amendments to any part of the bill shall be in order at any time; that consideration of the bill for amendment shall continue until Tuesday, May 28, 1929, at 3 o'clock p. m., at which time the bill with all amendments that shall have been adopted by the committee of the whole shall be reported to the House, whereupon the previous question shall be considered as ordered on the bill and all amendments to final passage without intervening motion except one motion to recommit. The vote on all amendments shall be taken en gross except when a separate vote is demanded by the committee on ways and means on an amendment offered by said committee." An hour and a half were allowed for debate on the rule itself. Mr. Snell, chairman of the rules committee, invoked the support of past practice. "There is nothing new or novel in the rule," he said.

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the debentures plan. George Peek does not seem to have been in Washington, but the act would have been impossible without the years of political pressure, of group consultation, and of technical consideration that lay behind it. The final answer rests, of course, in the use of the vast discretion of the Federal Farm Board.

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"We are providing the normal way of passing a tariff bill. In my judgment, what the country wants now is less talk and more action by Congress."

In the sharp exchange of words that followed, much was made of the fact that in passing the Underwood tariff bill in 1913 the Democrats were bound by the two-thirds vote of their caucus to reject all amendments not offered by the committee on ways and means. Vainly did Pou, ranking Democrat on the rules committee, say, "The purpose of the special rule we are now considering is to prevent record votes;" and his colleague, Bankhead, exclaim, "This is the most ironclad and restrictive rule ever reported to the House of Representatives;" and Cannon, Democrat, cry, "Defeat this rule and give us a chance to vote on the debenture plan." The majority leader calmly said: "What the people of the country want in connection with this tariff bill is results, and they are not going to be too critical as to what parliamentary methods are used by the responsible party for arriving at the results. . . . . The items in this bill are related and interrelated to each other, so that, if we should consider, without restriction, amendment after amendment, passing one and failing to pass another, a crazy quilt would be orderly compared with what the bill would be by the time it was finished. For that reason the party responsible for this legislation has chosen the plan of committing to 15 men who have made a study of this bill the preference of bringing in the amendments that should be first considered." The previous question on the adoption of the rule was ordered by a vote of 247 to 139, and immediately the rule itself (H. Res. 46) was agreed to by a vote of 234 (229 Republicans, 5 Democrats) to 138 (12 Republicans, 125 Democrats, 1 Farmer Labor).[16]

Caucuses. The caucus has been used so little of late years as a legislative device that a word should be added to the incidental reference already made to the matter. A conference of the House majority on the tariff bill was announced for May 10. It was evidently the original intention of the leaders to secure approval of a rule under

[16] Of the twelve Republicans, seven were from Wisconsin, two from Kansas, and one each from South Dakota, Iowa, and New York. All of the five Democrats who voted for the rule were from Louisiana. The tariff bill itself passed the House on May 28 by a vote of 264 (244 Republicans, 20 Democrats) to 147 (12 Republicans, 134 Democrats, 1 Farmer Labor). At this time the source of the 20 affirmative Democratic votes was: La., 6; Fla., 4; Tex., 2; with one each from Calif., Col., Ind., Mass., N.Y., Ohio, R.I., and Wash.

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which general debate could be closed about May 16, the amending process guarded, and the bill passed by May 23. This plan had to be modified. Mr. Crisp, a Democrat long in service, may have exaggerated in saying, "I have never known a bill reported to the House that had as much opposition from its own side as this one." Protests certainly were numerous. A so-called "corn belt committee," speaking for a group of representatives of Minnesota, North and South Dakota, Wisconsin, Iowa, Nebraska, Kansas, Missouri, and Oklahoma (with promise of support also from Illinois, Michigan, and California), asked the House leaders to postpone the party conference. Mr. Tilson said that it would be held as scheduled, but he indicated that no strong attempt would be made at the time to force the endorsement of a rule. Meeting in the House chamber on May 10, the conference was in session for several hours. It was reported that a roar of nays greeted a suggestion that the bill should be passed in the form in which it had been reported. The Republican helmsmen used the meeting as a method of taking soundings. A discreet policy of ostensible consultation and concession was inaugurated. On May 14 the majority members of the committee on ways and means began to hear disgruntled Republicans, starting with the spokesmen of the corn belt. A series of proposed committee amendments were formulated. A second conference was held on May 23; its two sessions lasted most of the day. As each member entered it, he was given a list of some 91 changes which, it was promised, would be moved by the committee on ways and means. The strategic retreat accomplished its purpose. The conference turned down dissident motions that separate votes should be allowed in the House on various controversial items. By a vote said to have been 206 to 24, the conference approved the use of the rigorous special rule discussed in a previous paragraph.

In the Senate, the insertion in the farm relief bill of an optional provision for export debentures was the occasion, in part, of two Democratic conferences. Consideration of the amendment on the floor was destined to reveal the lines of what came to be called the coalition and to demonstrate its ability to control the Senate. Whereas in the House a bill satisfactory to the administration was reported by a nearly unanimous vote (19 to 2), the Senate committee on agriculture (in the face of the President's emphatic letter of disapproval[17] to Chairman Mc-

[17] The President's letter appears as Appendix A in S. Rept. No. 3, on the "agricultural surplus control act," April 23, 1929. The majority report said:

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Nary on April 20) insisted upon retaining the debentures provision by 8 (3 Republicans, 4 Democrats, 1 Farmer Labor) to 6 (4 Republicans, 2 Democrats). On April 25 a Democratic conference was attended by 31 senators. At its close the minority leader announced: "The conference was called primarily to discuss the bill now before the Senate relating to farm relief. It is not contemplated that any attempt shall be made to bind the members of the conference to a vote for or against particular provisions. The discussion in the conference disclosed that many senators believe that the incorporation of the debenture plan will prove immediately helpful." Substantial unanimity in favor of debentures was in fact manifested in the voting that followed.[18]

Another Democratic conference was held on June 10. A vote upon acceptance of the conference report on farm relief was imminent; in the background hung the question of the whole Senate program regarding the tariff. The House leaders were seeking to induce the Senate to indicate by an agreement a relatively early date in the fall when it would finish with the tariff, holding out the threat that they

"Section 10 provides a mechanism of export debentures which the board may use at its discretion in meeting special situations which the board may find it impossible to meet adequately under the loan, stabilization corporation, and other provisions of the act. . . . . Under the export debenture plan a bounty may be granted upon exports of raw agricultural commodities or their food products. The bounty is payable in a form of currency denominated export debentures. The amount of the bounty so payable upon the export of an agricultural commodity is one-half the amount of the import duty on such a commodity. In the case of exports of food products, the bounty payable is proportionate to the amount of raw commodity consumed in the manufacture of the product. Debentures are legally tenderable at their face amount in payment of import duties."

[18] On May 8, on the crucial motion of Senator Watson to strike out the debentures section, the vote was 44 (42 Republicans, 2 Democrats—Ransdell, La., and Wagner, N.Y.) to 47 (13 Republicans, 34 Democrats). The bill passed the Senate on May 14 by an affirmative vote of 54 (21 Republicans, 33 Democrats), with only two Democrats—Wagner, N.Y., and Walsh, Mass.—among the 33 in opposition. On June 11, when the Senate refused to agree to the conference report eliminating debentures, only 4 Democrats—Wagner, N.Y., Ransdell, La., and Fletcher and Trammell, Florida—were among the 43 willing to accept the report, against 46 (13 Republicans, 32 Democrats, 1 Farmer Labor) in the negative. On Oct. 19, when practically the same debentures provision (having been finally dropped from the farm bill) was added to the tariff bill, the vote was 42 (14 Republicans, 28 Democrats) to 34 (31 Republicans, 3 Democrats—Wagner, N.Y., Walsh, Mass., Kendrick, Wyo.)

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might otherwise refuse to assent to a concurrent resolution providing for a reasonably lengthy summer recess. One reason why this came to naught was because the Democratic conference, to the surprise of many, announced (in the words of Senator Robinson) that "no agreement will be entered into now to fix a date for a final vote on the tariff."[19]

On the Republican side of the Senate caucuses are futile. Those who most deplore this fact sometimes find a virtue in necessity. Two modest meetings which were ostensibly party conferences were held in connection with the tariff. That on September 19 was attended by 37 of the 55 Republican senators. Nye was there, with Howell and McMaster; but Borah, Norris, LaFollette, Blaine, and Frazier were not present. The colloquy favored advancing the daily opening from noon to 11 o'clock and (as Leader Watson reported it in the Senate next day) devoutly hoped that its members would be strong enough to resist the temptation to engage in general debate on the tariff. At a conference on October 18, even fewer were on hand—"approximately 25," according to one press story; "between 15 and 20 prominent conservatives," according to another. It was suggested that the finance committee majority should meet daily in order to lessen debate by indicating in advance amendments they would accept and that night sessions should be held, or (if these were refused) that the morning meetings should begin at 10 o'clock.

Farm and Factory. Of the voting combination that controlled the Senate, Simmons, ranking Democratic member of the finance committee, remarked on November 8: ". . . . nobody wants to conceal the

[19] Unanimous consent agreements in the Senate are bent to purposes that distantly resemble the operation of special rules in the House. Such was the agreement of May 10 "that on and after the hour of 3 o'clock P.M. on the calendar day of Monday, May 13, 1929, no Senator may speak more than once or longer than 10 minutes upon the pending farm relief bill. . . . ." Such was the understanding agreed to on May 24 by which the time each member could henceforth speak on the census and reapportionment bill was limited to 30 minutes, although here also with no attempt to fix the date of final passage. Another outstanding example was the agreement of October 18 limiting each senator to 20 minutes on the debentures amendment to the tariff bill and requiring a vote at one o'clock on the following day. In this instance, it should be noted, the proposal was practically identical with an amendment previously debated in connection with the farm relief bill; moreover, it was clear that it was bound to pass. In connection with the tariff bill as a whole, unanimous consent agreements were used to arrange an earlier meeting time and evening sessions. Beyond that, they failed.

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fact that there is harmony of thought and opinion with reference to many of the rates between this side of the chamber and a very influential element on the other side of the chamber. That is the essence of the so-called coalition. . . . . It is a coalition that was not brought about by caucusing, but is a coalition that resulted from a union of minds." It was true, he added, that he had "consulted freely with the senators on the other side who are coöperating with us." Meanwhile the gentlemen referred to had been meeting almost daily from the time of their conference on September 3 in the rooms of the great committee of which Senator Borah is chairman, participated in by Mr. Borah himself and Senators Norris and Howell of Nebraska, LaFollette and Blaine of Wisconsin, Frazier and Nye of North Dakota, Brookhart of Iowa, and McMaster of South Dakota, with direct promises of support from Norbeck of South Dakota and Schall of Minnesota. As early as September 5, Senator Borah was able to say to the press, after a talk with the Democratic leader: "We are agreed upon procedure. . . . . We have a complete understanding as we go along." This statement need not be taken as disproof of the literal truth of Senator Harrison's assertion at the end of October: "There has never been any understanding between senators on the other side of the aisle and those of us on this side with reference to any particular rate."

Due warning of the strength of the coalition had been written on the wall in June, if, indeed, further warning was needed after the early roll calls on the debentures plan. On June 17, Borah's resolution (S. Res. 91) that the committee on finance be instructed to confine the revision to the agricultural schedule failed by the narrow vote of 38 (13 Republicans, 25 Democrats) to 39 (32 Republicans, 7 Democrats).[20] Further danger signs appeared while the majority of the committee on finance had the bill in hand. A new set of public hearings had been held between June 12 and July 10 before four bi-partisan subcommittees. When the redrafting of the bill began, however, the

[20] The 7 Democrats in the negative were: Walsh, Mass.; Trammell, Fla.; Broussard and Ransdell, La.; Heflin, Ala.; Steck, Iowa; and Dill, Wash. Later, with the ball in their possession, the coalition turned down the idea of restricting revision to the agricultural rates. On October 21, when, after six weeks on the special and administrative features, the Senate was about to take up the rate schedules, Thomas of Okla., Democrat, moved that the bill be recommitted with instructions to strike out all but the special and administrative provisions and the sugar, tobacco, and general agricultural schedules. This was defeated by 64 to 10 (7 Republicans, 3 Democrats).

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minority were excluded.[21] The vote among the Republicans on the committee, Senator Watson said later, "was six to five on practically every proposition as to which there was a controversy." The upshot of the attempt to exercise partisan control in the committee was merely to carry endless controversy to the floor, there to result usually in inevitable coalition victories.[22]

The extent of the committee's defeat was confessed in Senator Smoot's extraordinary challenge, wearily thrown to the coalition on November 9: "I would like to see some action taken, and, as one, I am perfectly willing that the Senate shall take a recess today until the 20th of the month, and in the meantime let the coalition examine the amendments proposed and report to the Senate whatever amendments they agree upon, and after the bill is taken up, let a vote be taken on the amendments without a word of discussion, and let us pass the bill." Both Simmons and Borah hastened to pronounce the proposition impracticable. "These discussions," said Simmons, "are serving a splendid purpose." Borah added: "I do want to say, as I intimated a few days ago, that those whom some are disposed to term the 'coalition' are really now in charge of the making of the bill. The responsibility is upon us. What the country wants, in my judgment, is speed."

The admission of the desirability of speed was qualified, from the standpoint of the coalitionists generally, by the implications in Senator LaFollette's declaration a little earlier:" . . . . there never has been a major piece of legislation before the Senate on which the discussion has been more germane to that measure than has been the case with the pending tariff bill." The shortest time ever given to a tariff bill in the Senate, he estimated, had been four and a half months. The

[21] It will be interesting to note, if a future tariff revision occurs when the Democrats are in formal control of the Senate, whether they will respect the solemn repentance of the elderly Simmons on October 21, deploring the traditional partisan methods in tariff-making in committee, which, he admitted, had been employed in 1913.

[22] The Senate committee on finance made 431 changes in the rate schedules and the free list: 177 were increases; 254 were decreases. The Senate dealt with 11 of 15 rate schedules before adjournment, and (according to the *Tariff Review* for Dec. 1929) considered 288 amendments. "In 163 instances proposed increases were eliminated and the present duties restored or the rates were reduced below those in the existing law. In 125 cases, increases were made over existing rates and 60 of these were on agricultural or related products."

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comparison assumed that the present bill approximated a general revision. On this the coalition had the testimony of as regular a person as Senator Fess, the Republican whip, who said on October 28: "The bill coming from the House was rather general. I admit it went beyond a limited revision. The finance committee took the House bill as the basis for its action and has amended it in nearly 1,000 items."

In mid-November Senator Norris was in such high spirits that he referred lightly to the burden of night sessions, and lightly even to an automobile accident in which he had recently been involved. "I have been run over so often in the past by political machines," he said, "that an ordinary automobile running over me has no effect whatever, unless it be an invigorating one." On the other hand, Dr. Copeland—also senator from New York—was exclaiming: "I should not be true to my professional training if I did not make other plea to Senators to adjourn the Senate." At this juncture the attention of the press was directed to a group variously called the "Young Republicans," "the Freshmen," the "Young Guard," the "Hoover Bloc," the "Young Turks," the "Baby Bloc," and the "Junior League."[23] A formula that may or may not have been in their minds was sketched by one of their most active mouthpieces, Senator Henry J. Allen of Kansas, who was quoted on November 18 as saying: "We desire a bill with farm rates approved by the American Farm Bureau and the industrial rates on the average about the same as the present law, with increases for industries which are now depressed." On November 14 this group helped in the unexpected defeat of Simmons' motion (put with the concurrence of the acting Republican leader) for adjournment on November 23. In the end, on November 20, the proposal to adjourn on November 22 was carried by 49 (14 Republicans, 35 Democrats) to 33 (32 Republicans, 1 Democrat). Apart from further undermining the prestige of the accredited leaders, the effect of the first-year members seemed to be to provide the coalition with more water in which to float their program of ample debate and consideration.

Meanwhile some of the most powerful Republican leaders treated the bill as virtually dead. "The coalition," declared Senator Reed on November 6, "has made up its mind to knock out every increase in the industrial rates, and we might just as well go ahead and have done

[23] The members seem to have been: Allen, Kan.; Glenn, Ill.; Goldsborough, Md.; Hastings, Del.; Hatfield, W.Va.; Herbert, R.I.; Kean, N.J.; McCulloch, Ohio; Patterson, Mo.; Townsend, Del.; Vandenberg, Mich.; and Walcott, Conn.

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with it. Then the bill will go to conference, and the House and the Senate will never agree, but we will at least be rid of it and can go on with our routine business."[24] This was after an amendment upon the floor had been adopted by a vote of 48 to 30, cutting the duty on iron in pigs from $1.50 to 75c. Mr. Reed felt so angry that he said: "I do not think the Communists are doing any damage at all, but I believe that the action of the Senate on such items as this, when the facts are proven beyond a doubt by their own Tariff Commission, is doing more damage to the stability and the structure of American industry than anything which could be done by these unworthy groups I have mentioned." The polished and polysyllabic Ashurst of Arizona had opportunity to say the next day: "Opulent as history is in irony, I am unable to call to mind any irony more distinct than the efforts of my honorable friend, the Senator from Pennsylvania, to promote free trade in manganese."

There was, in fact, little inconsistency on either side, however much there may have been of a selfishness which, embracing no larger area than a section, has not the right to call itself patriotism. The lines of the dispute were along the inveterate controversy between the claims of raw materials—products of the farm, forest, and mine—and, as Key Pittman of Nevada put it, the "opposition of those who have been the beneficiaries of this institution from the very beginning against having the production of raw materials considered as an industry." As a leader of the coalition, Senator Borah advocated no abstract low-tariff position. "We in the West are now a developing country," he said on September 26. "Protection is more applicable to us than to any other part of the country and more necessary in order that we may develop, and it is because of the fact that we must necessarily guard the power that we have, and the rights we have, upon this floor . . . . this is the only body left where there is anything like equality in shap-

[24] The outcome is likely to be crucially affected by the composition of the conference committee. An interesting plea by Senator McKellar for coalition recognition there was issued through the Democratic National Committee on October 7. Even more, it will depend upon the possible development of a larger group of insurgent Republicans in the House. In the vote on the passage of the tariff bill on May 28, only 12 Republicans were in the negative, distributed as follows: 5 from Minn.; one each from Iowa, Kan., N.Y. (LaGuardia), Penn. (James Beck, on the ground of constitutional objections to the flexible tariff provision), S.D., and Wis.—the lack of insurgency here being surprising, although perhaps less so in view of the placing of Frear on the ways and means committee.

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ing the economic policies of the country as between the industrial interests and agriculture.''[25]

The measure of the strength of the coalition can be read in certain outstanding votes on the special and administrative features of the act. One phase of their interest was revealed on September 10, when a resolution was adopted directing the committee to obtain from the Treasury information regarding the profits, etc., of taxpayers indicated by either the majority or minority of the committee as ''affected by the pending tariff legislation.''[26] This prevailed by a vote of 51 (21 Republicans, 30 Democrats) to 27 (all Republicans). Proposed new methods of determining values were struck out on October 7 by a vote of 44 (11 Republicans, 33 Democrats) to 37 (36 Republicans, 1 Democrat). Provision for the issuance of export debentures in the discretion of the Federal Farm Board was inserted on October 19 by 42 (14 Republicans, 28 Democrats) to 34 (31 Republicans, 3 Democrats). Mr. Hoover's most particular hope—a flexible tariff operating through the President on the advice of the Tariff Commission—was eliminated by a vote of 47 (13 Republicans, 34 Democrats) to 42 (38 Republicans, 4 Democrats).

The President and Congress. It is too early to appraise the President's methods, let alone the extent of his influence, in legislation.[27]

[25] Rifts in the coalition appeared (though not seriously, for Democratic senators from the East are at the moment almost non-existent) when Walsh of Massachusetts cried out against the proposal of a higher duty on raw wool.

[26] It is impracticable, but also unnecessary in view of the attention they have commanded, to trace the work of the sub-committee of the Senate committee on judiciary (Caraway, chairman, Walsh of Montana, Borah, Blaine, and Robinson of Indiana) in investigating lobbying, under S. Res. 20, agreed to October 1; or of the sub-committee of the committee on naval affairs (Shortridge, chairman) in looking into the activities of W. B. Shearer, at the Geneva naval conference especially, in behalf of certain shipbuilding companies, under S. Res. 114, passed on September 14. The latter was suspended in mid-October, to go over to the new year. Parts of the report of Caraway's committee (S. Rept. 43) were submitted to the Senate from time to time, on special matters. One of these concerned the action of Senator Bingham of Connecticut—one of the most prominent exponents of the cogent ''aged industries'' argument for the protective tariff—in placing Charles L. Eyanson, assistant to the president of the Connecticut Manufacturers' Association, on the rolls of the Senate. This action was declared to be ''contrary to good morals and senatorial ethics'' in S. Res. 146, adopted on November 4 by 54 (22 Republicans, 32 Democrats) to 22 (all Republicans).

[27] In his message on April 16, President Hoover favored the consideration of ''certain matters of emergency legislation that were partially completed in the

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Senator Smoot shed little light when asked whether the President favored the bill as it came to the Senate. "I know," he said, "that the President is in favor of protection." Perhaps the President shares Senator Watson's theory that when "the bill goes to conference and approaches a finality then we may determine with the President what or what not should be left out in accordance with his desire, pending a veto or facing a veto, but not before." Apart from the President's remarks in his inaugural address and in his message on April 16, he publicly broke his silence on the tariff in two prepared statements given to the press. On September 24, speaking in the first person, he urged that the power to change tariff rates should be left to the President. On October 31, using the third person, he urged that the bill should be sent to conference within two weeks. In this statement, he based a plea for the flexible tariff in his own disclaimer that, "The President has declined to interfere or express any opinion on the details of rates or any compromise thereof, as it is obvious that, if for no other reason, he could not pretend to have the necessary information in respect to many thousands of commodities which such determination requires." If the President has fallen short in this first test of leadership, it has doubtless been due to a lack of prevision, or of decision, or perhaps merely of influence, in using the House organization to control the early, crucial stage of revision.

Countryside and City. Reapportionment triumphed at last in the enactment of a measure that also carried provision for a decennial census of population, agriculture, irrigation, drainage, distribution, unemployment, and mines (Public No. 13, S. 312, approved June 18). In the Senate, the crucial vote on reapportionment was provoked by the motion of Senator Black of Alabama to strike out the whole section. It was defeated by 38 (9 Republicans, 29 Democrats) to 45 (40

last session, such as the decennial census, the reapportionment of congressional representation, and the suspension of the national-origins clause of the immigration act of 1924, together with some minor administrative authorizations." Mr. Hoover did not have his way about national origins. Reluctantly, on March 22, he had proclaimed the quotas, effective July 1. Senator Reed led the defense of the clause. "If I am an insurgent or pseudo," he said, "we will have to make the best of it." The Senate committee voted 4 to 2 against reporting the repealer (S. 151). Senator Nye, N.D., pressed a resolution (S. Res. 37) to discharge the committee. On June 13, the resolution was allowed to go to a vote, failing by 37 (27 Republicans, 10 Democrats) to 43 (19 Republicans, 24 Democrats).

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Republicans, 5 Democrats). Shortly afterwards, Senator Sackett of Kentucky moved an amendment to eliminate aliens as a basis for representation. "Why should we change the power of the Congress," he cried, "from the rural communities, which need it most, to those parts of the country which are populated by a foreign alien horde?" His amendment failed by 29 (11 Republicans, 18 Democrats) to 48 (37 Republicans, 11 Democrats). The combined bill passed the Senate on May 29 by a vote of 57 (41 Republicans, 16 Democrats) to 26 (8 Republicans, 18 Democrats).

While the House had it in committee of the whole, two antipathetic amendments were temporarily inserted in it by the force of non-concentric, overlapping majorities, in which the Middle Western element was the common factor. The first of these struck at the alien; it was adopted on June 4 by 183 to 123. The other proposed that the census should include the enumeration of citizens over twenty-one whose right to vote "has been denied or abridged except for rebellion or other crime." Its sponsor, Tinkham of Massachusetts, declared that if it were not adopted "this House is a House of hypocrites, of nullifiers, and of men wholly lawless." It, too, was adopted on June 4, the vote being 145 to 118. Space does not permit telling how the majority leader saved the bill by devising procedure that would (as he put it afterwards) "combine the two groups opposing each of the offending amendments." The bill passed the House on the same day, June 6, by 271 (193 Republicans, 79 Democrats) to 104 (43 Republicans, 61 Democrats).[28] In its final form, the reapportionment section leaves the membership of the House at 435. It provides that at the opening of the second regular session of the 71st Congress, and of every fifth Congress thereafter, the President shall transmit a statement showing the number of representatives to which each state would be entitled, ascertained, first, by "the method used in the last preceding apportion-

[28] In conference, confronted by an adamant House, the Senate practically abandoned the provision for civil service in census organization. This had originally been written into the bill by the amendment proposed by Senator Wagner, N.Y., Democrat, adopted on May 24 by 42 (11 Republicans, 31 Democrats), to 37 (36 Republicans, 1 Democrat). The Senate provision calling for a census of radio sets was also dropped. A compromise was reached by which the census of population was to begin April 1, 1930, instead of November 1, 1929, as the Senate wished, or May 1, 1930, as the House wrote it. The conference report was accepted in the Senate on June 13 by a vote of 48 (40 Republicans, 8 Democrats) to 37 (9 Republicans, 28 Democrats).

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ment," second, by "the method of major fractions," third, by "the method of equal proportions." Thus was the technical bone of contention compromised. If the Congress that receives the statement should not enact a law, reapportionment would take place automatically according to the method used in the last preceding apportionment.[29]

The Senate as Council. An interesting step in the development of the Senate was taken by the adoption on June 18 of an amendment to its rules (Rule XXXVIII, par. 2), stating, in part, that "hereafter all business in the Senate shall be transacted in open session, unless the Senate in closed session by a majority vote shall determine that a particular nomination, treaty, or other matter shall be considered in closed executive session," and adding "that any senator may make public his vote in closed executive session."[30] The sponsor of the change, Senator Jones, had planned to confine it to nominations; the committee on rules attempted to reverse the provision so that the line of least resistance would still be the closed session; but in the end the bipartisan combination asserted itself and adopted the broadened substitute proposal of the Democratic leader by a vote of 59 (31 Republicans, 28 Democrats) to 15 (13 Republicans, 2 Democrats). On October 16 the scheme of confirmation in open session was illustrated in the confirmation of the eight members of the Federal Farm Board, three of whom elicited opposition.[31]

In the course of the special session,[32] 3,728 executive nominations

[29] For the fifth time, on June 7, the Senate passed the constitutional amendment sponsored by Senator Norris (S. Jt. Res. 3, popularly called the Lame Duck Amendment). The vote was 64 (36 Republicans, 28 Democrats) to 9 (7 Republicans, 2 Democrats).

[30] In urging the change, Senator Jones referred to the leak by which two press syndicates circulated stories purporting to give the exact roll call on the confirmation of Irvine L. Lenroot as a justice of the Court of Customs Appeals, as a result of which (despite protests from such senators as LaFollette) the committee on rules sought to rebuke Paul R. Mallon, of the United Press Association, and to deny his association the privilege of the floor. Senator Jones said on May 21: "It simply emphasizes the impractical character of our rules with reference to the transaction of business in executive session."

[31] Alexander Legge, chairman, confirmed by 67 (43 Republicans, 24 Democrats) to 12 (4 Republicans, 8 Democrats); S. R. McKelvie, grains, confirmed by 50 (38 Republicans, 12 Democrats) to 27 (8 Republicans, 19 Democrats); and C. W. Williams, cotton, confirmed by 57 (39 Republicans, 18 Democrats) to 20 (5 Republicans, 15 Democrats).

[32] At a special session on March 5, the Senate confirmed the eight cabinet nominations submitted by President Hoover, and by resolution directed the committee

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(transmitted in 243 separate messages) were received by the Senate. Of these, two (both postmasterships) were rejected; 5 were withdrawn; 3,546 were confirmed, leaving 170 unconfirmed at the end.[33]

The Senate meanwhile found time to ratify ten treaties and to make public another not yet acted upon,[34] and prepared to relinquish two of its number to the diplomatic service and to loan two others to the naval conference delegation.

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"The Bearing of Myers v. United States upon the Independence of Federal Administrative Tribunals"—A Criticism. In a recent issue of the *Review*,[1] Professor James Hart, of Johns Hopkins University, has advocated a limitation upon the doctrine announced in the Myers case[2] so that Congress may prescribe the terms of office of the members of the various quasi-judicial administrative tribunals, and incidentally that of the Comptroller-General.

The present writer's views on the status of the Comptroller-General

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on judiciary to "inquire and report .... (1) whether the head of any department of the United States may legally hold office as such after the expiration of the term of the President by whom he was appointed; ((2) whether, in view of the provisions of the laws of the U. S., Andrew W. Mellon may legally hold the office of Secretary of the Treasury. ....."

[33] By main groups, the figures were: (1) Civilian (other than postmasters), 616 nominations, 544 confirmed, 1 withdrawn, 71 unconfirmed; (2) Postmasters, 793 nominations, 757 confirmed, 2 rejected (Dillon, Mont., and Jamestown, N.D.), 34 unconfirmed; (3) Army, Navy, and Marine Corps, 2,324 nominations, 2,255 confirmed, 4 withdrawn, 65 unconfirmed. The refusal of the Senate in open session on November 20 to confirm A. C. Gruwell as postmaster of Dillon seemed hopeful. The nominee received a rating of only 70.60 per cent in an examination in which the present incumbent (apparently satisfactory) was given 86.60 per cent (including 5 per cent for war service), and another candidate 78 per cent.

[34] Not yet ratified: convention (signed March 27, 1929) regarding the sockeye salmon fisheries in the Fraser River system. Ratified: arbitration treaties with Ethiopia (signed Jan. 26, 1929), Roumania (signed March 21, 1929), Belgium (signed March 20, 1929), Luxemburg (signed April 6, 1929), Portugal (signed March 1, 1929); treaties of conciliation with Ethiopia (signed Jan. 26, 1929), Roumania (signed March 21, 1929), Belgium (signed March 20, 1929), Luxemburg (signed April 6, 1929); and, with a reservation regarding scope of prison-made goods, the convention and protocol signed at Geneva Nov. 8, 1927, and July 11, 1928, for the abolition of import and export prohibitions and restrictions.

[1] August, 1929, p. 657.

[2] 272 U.S. 52. The opinion says that Congress cannot limit the President's power to remove the members of the quasi-judicial administrative tribunals.

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are expressed elsewhere.[3] He also dissents from Professor Hart's views on the expediency of granting to the various administrative tribunals any different terms of office from those which the Chief Justice indicated in the Myers case that they already have. This dissent is not a little supported by the practical suggestion of Dr. Hart. He indicates that "constitutional *mores*" are alone not enough to regulate the President's actions in exercising his power to remove,[4] but that a definite term and formula should be prescribed and "constitutional *mores*" then depended upon to keep the President within the bounds of the formula.[5] The limited experience of the present writer indicates that it is easier to satisfy a formula which is presumed to prescribe justice than to satisfy the dictates of justice on the facts of each case.

Expediency, however, is a matter of opinion. One who attempts to criticize the logic and technique of another must accept the other's views of expediency. Assuming, therefore, that it is expedient for the Court in future decisions so to limit the Myers decision as to allow Congress to prescribe without constitutional objection the terms of the members of the quasi-judicial administrative tribunals, the question to be presented here is whether or not Professor Hart has advanced a legal theory which the Court, if it is so minded, is likely to adopt. It is not the purpose of this paper to present a better theory than that of Professor Hart. That would probably be impossible. Because the present writer dislikes Professor Hart's result, his purpose here is to suggest that the result is impossible.

Before attending to the more specific points of Professor Hart's argument, two general criticisms should be made. First, the diagnosis of the judicial mind made in the article has the defects common to most such diagnoses by non-legal scholars, and also many diagnoses by legal scholars who have never practiced. Professor Hart does lip service to the fact that judges are human,[6] but he cannot know without actual contact with specific minds and specific cases the full meaning of his words. It must be remembered that the legal profession is endowed with a paraphernalia which, like that of the magician, is hard for the uninitiated to understand. History and logic play a much more

[3] 23 *Illinois Law Rev.* 556.
[4] Pp. 658-9.
[5] P. 671.
[6] See his footnote 7.

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important part with the judiciary than Dr. Hart seems to be willing to recognize. Courts do not read meaning into or out of documents as boldly as he indicates. They are naturally conservative and make no such radical moves as he attributes to them. When it is necessary to get meaning out of the apparently meaningless, the process is definitely circumscribed by history, precedent, logic, social needs, and professional opinion, i.e., the opinion of the practicing bar.[7]

The second general criticism is this: Congress is not an omnipotent parliament. Whatever may be the conclusiveness of the history of the removal power, history conclusively demonstrates that at least one of the purposes of the Federal Convention was to curb the populace and place distinct limits on the people's representatives in favor of a strong executive.[8] It may be that the doctrine of the separation of powers was adopted less by mistake than to supply a theory for an expedient solution. Most of the commentators on the Myers case seem to overlook this fact. As against the other two branches of the triumvirate, there is no presumption that Congress is given the exercise of any power delegated to the federal government. The rule of law which raises a presumption of the validity of congressional acts applies only when these acts are subjected to an attack on the ground that they exceed the power of the federal government; a clearer statement of the presumption would be that of the validity of the acts of the federal government, whether legislative, executive, or judicial. Professor Hart apparently falls into the same error as the other commentators on the Myers case. He seems to have more faith in legislative than in executive wisdom. In spite of a couple of bad examples of presidents in recent years, the legislator can lay little more claim to preferment over the executive today than at the time of the federal convention.

Professor Hart's theory of removal is based, he says, upon the Anglo-American conception of executive power. According to this conception, he says, executive power is divided as follows: "(1) certain political powers of a discretionary nature vested *by our Constitution* directly in the President, ... ; (2) the executive function in the general sense of administration of the laws, ..."[9] The word "Anglo-

[7] See Cardozo, *Nature of the Judicial Process.*

[8] See Thach, *Creation of the Presidency,* especially Ch. III and the first paragraph of Ch. IV.

[9] P. 666.

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American'' is not well chosen. The English conception of executive powers is quite different from the American. The American conception is derived from a French misconception of the English system. The idea of the separation of powers is not, however, peculiar to Anglo-American law. The first expounder of a theory of the separation of powers was Aristotle.[10] His followers have by no means been confined to the English-speaking nations, and no two expounders since Aristotle have fully agreed on any classification of governmental powers. That the conception is not very clear in the mind of Dr. Hart is indicated by his method of naming his classes; one class is made up of ''political powers'' and the other of ''executive functions.''

Professor Hart indicates that the Constitution itself suggests his classification of executive powers. Briefly, the constitutional grant to the President is as follows: (1) the executive power; (2) commander-in-chief of the army, navy, and militia, which Congress has power to raise, support, provide, maintain, and make rules for the government and regulation of; (3) require written opinions from executive departments; (4) grant reprieves and pardons; (5) make treaties, by and with the advice and consent of the Senate; (6) nominate and, by and with the advice and consent of the Senate, appoint certain officers; (7) fill vacancies; (8) receive ambassadors; and (9) take care that the laws be faithfully executed. Professor Hart nowhere indicates which of these powers are assigned to either of his classes, and their enumeration certainly discloses no indication of such a classification. The fact of the matter is that our Constitution does not vest in the President certain discretionary powers as distinguished from the executive function in the general sense; but it does vest in the President the executive function, in Congress the legislative function, and in the courts the judicial function. As part of the judicial function, it leaves to the Supreme Court a pretty wide latitude to do its own classifying of the powers of government, a right which, so far as the line between the legislative and the executive is concerned, the Supreme Court has exercised to date very infrequently.

Professor Hart indeed gives us some idea of his classification when he says that the President has the power to remove as a correlative to his power of administrative supervision. He says, however, that

[10] *Politics* (Jowett's trans.), Book IV., Ch. XIV; (Welden's trans.), Book VI., Ch. XIV.

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this is the President's power only conditionally.[11] Why conditionally? Because the omnibus clause of Section 8 of the legislative article gives Congress power to pass all laws necessary and proper to carry into execution all powers vested in the government of the United States, or in any department or officer thereof. Professor Hart is to be commended for his originality in making this contention. It gives one who attempts to criticize his conclusions some pause. It is, however, not unanswerable. Remembering that there is no presumption of the validity of the exercise of a particular power by any one of the three departments, this clause is to be interpreted as meaning that where it is proper to legislate rather than execute or adjudicate, the legislation cannot be attacked on the ground that such power is not delegated to the federal government. Check upon a power that is executive rather than legislative is not by that clause given to the legislature. Checks by one department on the exercise of a power properly allocated to another must be specific.

A proper understanding of this interpretation requires a brief summary of the present writer's theory of the separation of powers. As a matter of fact, of course, the operation of a government with its powers divided up between three coördinate branches is impossible. The outcome is that one of the branches assumes the supremacy. In America, this has been the judiciary, so that our governments may be called judiciocracies. The theory of the separation of powers is, however, a part of our legal structure and must be dealt with in any discussion of the legal aspects of the organization of government. According to this theory, all powers of government are allocated to one of the three branches, executive, legislative, or judicial. Each exercises its powers with only that check by either of the other branches which is specifically provided in the Constitution. Even the checks specifically given to the other branches are to be construed strictly.

This, it is believed, is the result of such decisions as have so far been rendered. When called upon to pass upon a question involving the separation of powers, the Supreme Court realizes that it is dealing with a theory that it must use to insure the best practical government possible, and in the application of which it has a wide latitude. As the decisions have gone so far, the Supreme Court has set off judicial power from the other two by rather distinct lines. The line between

[11] Pp. 667-8.

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the legislative and the executive is just begun. From the relatively few decisions so far rendered, the following seems to the present writer to be the point of view adopted by the Supreme Court. When it is determined that a particular power belongs to one of the three branches, that branch should be given, in the exercise of that power, a free rein. The Court sees that uncontrolled power may be abused, but realizes that government is possible, after all, only by the exercise of self-restraint, and that, in the final analysis, laws do not make a government work. It is the willingness to be governed on the part of the governed and a desire to make the thing work on the part of those who exercise the powers of government that make government possible. The Supreme Court seems, therefore, to take the attitude that, if it is not futile, it is at least not desirable, to attempt to control that desire by law.

Applying this attitude to the quasi-judicial administrative tribunals, if Congress finds it desirable to give them executive powers, it must be willing the see them come under the final control of the President, and to depend upon his desire to make the government run to restrain him in the amount of control he actually exercises over them. The power to remove is too important a power in the hands of the supreme executive to be infringed upon. He must be able to control his important subordinates, and they must realize their dependence on his will alone, if he is to be held responsible not only for administrative efficiency but for the economic and social welfare of the nation. The tenure of the inferior ranks may well enough be regulated so long as the enforcement of the regulations is in the hands of those whom the President may control by his removal power.

The final comment on Professor Hart's article concerns his generalization from the Myers decision. He says that the decision is to be limited to a holding that the Senate (or Congress) may not be associated with the President in the act of removal.[12] To allow this would be to invade the separation of powers. His theory, as has been said before, is plausible; but when the omnibus clause in the legislative article is shown not to be relevant to this discussion, the only clauses left are those in the executive article upon which the Supreme Court rests its decision, namely, the general grant of executive power, the injunction to see that the laws are faithfully executed, and the grant of the appointing power. In the mind of the Chief Justice, with

[12] Pp. 662, 670.

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his own personal knowledge of the difficulties of performing this duty of seeing that the laws are faithfully executed, the *general grant of executive power* meant enough power so that the President could perform this duty with some semblance of satisfaction to himself. Such congressional interference as is necessary does not make that task lighter or the results more favorable. He was not favorable to any increase in that interference. To him, the general grant of executive power carried with it the *sine qua non* of efficiency, the untrammeled control by the President of his subordinates, including the Interstate Commerce Commission, the Federal Trade Commission, the Federal Reserve Board, and the others. These agencies have too much executive power to be allowed a position of ultimate independence of the President. Jackson's point of view in dealing with the old National Bank should be recalled, and also that institution's attempt to thwart Jackson's policies. So, independent boards dealing with such vital national concerns as those above named should be in no position to stand out indefinitely against the President's leadership toward what he conceives to be desirable. Constitutional *mores* may be depended upon to give them all the independence that is compatible with popular needs. So strong was this thought in the mind of the Chief Justice, and so strongly does it appear from a careful reading of the opinion, that it would certainly require considerable violence to re-interpret the general grant of executive power in accordance with Professor Hart's wishes.

In conclusion, the writer must dissent from the assertion that the opinion of the Chief Justice "runs counter to the generally accepted principles of the art of government," and must assert that he is one political scientist who does not agree that the tenure of quasi-judicial officers should not be at the mercy of the President. He is highly skeptical of an art which runs counter to the practical experience in government of the present Chief Justice; and he does not give much weight to the opinions of political scientists who have had no practical experience with quasi-judicial administrative bodies.[13]

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[13] In connection with this subject, it may be added that the most scholarly work yet written on the presidency has been singularly neglected by the numerous commentators on the Myers decision. Professor Thach's *Creation of the Presidency* has the advantage of having been written by a real historical scholar and an excellent political scientist *ante litam motam*.

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Professor Hart has requested that the following statement be printed in conjunction with the preceding article: "Dr. Langeluttig kindly furnished me a copy of the above comments, and the editor agreed to allow me to reply. I do not, however, think it necessary to do so. My views will be further elaborated in a monograph shortly to be published by the Johns Hopkins Press." *Man. Ed.*

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CONSTITUTIONAL LAW IN 1928-29

THE CONSTITUTIONAL DECISIONS OF THE SUPREME COURT OF THE UNITED STATES IN THE OCTOBER TERM, 1928

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A. QUESTIONS OF NATIONAL POWER

I. EXECUTIVE POWER—THE POCKET VETO CASE

"Pocket veto" is the term applied to the killing of a bill by the President by the process of retaining it without signing it when Congress adjourns before the bill has been in his hands ten days. The Constitution provides for the pocket veto by stating: "If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law."[1] In the "Pocket Veto" case[2] the Court decided that the word "adjournment" in this clause refers not merely to the final adjournment at the expiration of a Congress, but to any temporary or ad interim adjournment. In short, the President may effectively pocket veto a bill whenever Congress, by going home, prevents him from returning it within ten days. The Court thus gave judicial sanction to a practice which has been followed sporadically ever since the days of Madison.[3]

On June 24, 1926, a bill was presented to President Coolidge authorizing certain Indian tribes to sue in the Court of Claims. On July 3 the first session of the 69th Congress adjourned, and it did not meet again until December. It was not in session on July 6—the tenth day after the bill was presented to the President (Sundays excepted). The President neither signed the bill nor returned it to the Senate,

[1] Const., art. 1, sec. 7, cl. 2.

[2] 279 U. S. 655. The case is cited as the "Pocket Veto" case in the official reporter. As originally presented, it was Okanogan Indians v. United States, and is so cited in the Lawyers' Edition of the Supreme Court Reports.

[3] The only case in the Supreme Court which has any bearing upon the problem at all is that of La Abra Silver Mining Co. v. United States, 175 U. S. 423, which held that the President might lawfully sign a bill presented to him after Congress has taken a recess for a fixed period.

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where it had originated. It was not published as a law. The Indians, however, alleging that the bill had become law without the President's signature, sought to bring their suit in the Court of Claims. That tribunal refused to hear them, on the ground that the bill had been killed by the pocket veto, and the case went to the Supreme Court by certiorari. By request of the Judiciary Committee of the House of Representatives, one of its members appeared as *amicus curiæ* attacking the use of the pocket veto at the time of an ad interim adjournment.

In upholding the use of the pocket veto in the present case, the Court, speaking through Mr. Justice Sanford, divides its argument into four major points, which it presents mainly in the form of refutation of the arguments made by the plaintiffs and *amicus curiæ*. In the first place, it was urged that the President is intended by the Constitution to have merely a qualified veto over legislation, that if he disapproves a bill he is expected to return it with his objections so that Congress may reconsider it. The clause under review ought, therefore, to be so construed as to give effect to the reciprocal rights and duties of the President and Congress and to prevent his exercising a silent and absolute veto when it would be possible for him to return the bill with his objections for congressional reconsideration. The Court answers this by emphasizing that the Constitution imposes a most important duty upon the President in the consideration of bills and wisely provides a ten-day period for the deliberate and careful performance of that obligation. His duty in this connection cannot be cut down by Congress, nor can the time for its exercise be shortened. When Congress, by its adjournment during the ten-day period, prevents the President's careful scrutiny of the bill and its return to Congress, the failure of the bill to become a law is not necessarily due to the President's disapproval, but to the adjournment during the ten-day period. In other words, if Congress wishes to prevent the failure of bills through the pocket veto at the time of an ad interim adjournment, it may do so by remaining in session long enough to permit the President to return with his objections such bills as he disapproves.

In the second place, the Court finds no warrant for construing the phrase "within ten days (Sundays excepted)" as meaning "legislative days" rather than calendar days. So construed, the ten-day period in the present case, eliminating from the count entirely the period of adjournment, would have extended over into the short session opening in December, at which time the President could have returned

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the bill for reconsideration if he disapproved it. But the Court finds no support for this interpretation, which is negatived by the phrase "Sundays excepted." According to ordinary usage, "day" means calendar day. "No President or Congress has ever suggested that the President has 'ten legislative days' in which to consider and return a bill, or proceeded upon that theory."

In the third place, there is no sound support for the interpretation of the word "adjournment" to mean only final adjournment. The Constitution uses the term in other connections where final adjournment is obviously not meant, and similarly the House and Senate rules both speak of "adjournment" when only an ad interim adjournment is meant.

Finally, the Court holds that whether an "adjournment" has taken place within the meaning of the clause under discussion depends upon whether the President could return the bill to the house in which it originated before the end of the tenth day from the date of its presentation. This raises the crucial question whether the President may "return" a bill to a house which is not in session. It had been urged by counsel that the President could return it to the clerk, secretary, or other designated agent of the house, who could put it on file and present it to the full house when it reconvened. This view the Court rejects. The "house" to which the bill must be returned is the house in session. This seems to accord with the plain meaning of the Constitution. There is dictum supporting this view in an earlier case,[4] and the long established practice in respect to receiving the President's message in full session is in accord. Nor has either house of Congress ever designated or authorized any officer or agent to receive bills from the President during an ad interim adjournment.

In addition to these arguments, the Court relies strongly upon the fact that long established custom, extending over many years, supports the practice under attack here. In one instance, in 1868, the Senate passed a bill providing for the return of bills by the President while the Congress was not in session.[5] This, however, failed of passage in the House. As against this single unsuccessful effort there stands the record of over 400 pocket vetoes during our entire history, with 119 of them exercised at the time of an ad interim adjournment.[6]

[4] Missouri Pacific R. Co. v. Kansas, 248 U. S. 276.

[5] S. 366, 40 Cong., 2d. Sess.

[6] The results of a careful investigation of previous practice made by the Department of Justice are presented in House Document No. 493, 70 Cong., 2d. Sess.

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II. LEGISLATIVE POWER

1. *Power to Compel Testimony—Punishment for Contempt*

It will be recalled that the case of McGrain v. Daugherty[7] upheld the right of the Senate to compel a witness to appear and give evidence necessary to enable that body to exercise a legislative function. In Barry v. United States *ex rel.* Cunningham,[8] it is held that a similar power may be used in aid of the judicial function of the Senate in judging the elections, returns, and qualifications of its own members. The case arose in connection with the contest over the seating of William S. Vare as senator from Pennsylvania. Cunningham was a member of the Vare organization. He was summoned before the Senate committee investigating campaign expenditures before the election of 1926 and testified that he had made two cash payments, amounting to $50,000 to the chairman of the Vare organization, the origin of which he refused to disclose, on the ground that it was a personal matter. After the election he was again summoned, and again refused to give this information. When Congress convened in December, 1927, the Senate, in view of the large sums alleged to have been spent on behalf of Mr. Vare, directed its special committee on campaign expenditures to investigate his claims to a seat, in the meantime refusing to seat him. The committee, reporting in March, 1928, included in its report the evidence given by Cunningham, recited his refusal to testify as to the questions asked of him, and recommended that he be adjudged in contempt of the Senate. The Senate did not cite him for contempt, but instead passed a resolution reciting his contumacy and authorized a warrant ordering the sergeant-at-arms to arrest Cunningham and bring him before the bar of the Senate to answer such questions pertinent to the matter under inquiry as might be propounded. Barry, the sergeant-at-arms, arrested Cunningham, who sued out a writ of habeas corpus in the district court. The district court upheld the validity of the arrest.[9] This was reversed on appeal by the circuit court of appeals,[10] and was brought from there to the Supreme Court.

The Supreme Court, speaking through Mr. Justice Sutherland, held that the arrest was within the power of the Senate. It gave its attention to three major attacks upon the validity of the arrest. In the

[7] 273 U. S. 135. See comment in this *Review*, vol. 22, p. 78.
[8] 279 U. S. 620.
[9] 25 Fed. Rep. (2d.) 733.
[10] 29 Fed. Rep. (2d.) 817.

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first place, it held that the Senate was engaged in an inquiry that it had constitutional power to make. The Constitution gives to each house the power to judge the elections and qualifications of its own members.[11] This is a judicial rather than a legislative function, but it is clear that in its performance the Senate may conduct necessary investigations to secure evidence and information. There is no merit in the contention that since Vare had been denied his seat pending the investigation he was not a "member," and therefore the Senate was not investigating the returns and qualifications of members. The use of the term "member" in this connection extends to those who have been certified from their several constituencies to have been elected and present themselves to the Senate for admission. This has been the uniform interpretation given in the past. The Court also rejected the contention that the Senate's refusal to seat Vare during the time of the investigation was unconstitutional as depriving the state of its equal representation in the Senate. This guarantee of equality of representation appears in Article V as a restriction upon the amending power and does not apply to the present situation. The Senate's refusal to seat Vare does not deprive the state of its "equal suffrage" any more than would its perfectly valid action in expelling a sitting member.

Furthermore, there can be no objection to the action of the Senate in taking over the investigation from the committee and ordering Cunningham to appear directly before the full body. The committee was merely the tool commonly used in making an investigation, but by no means a necessary one. In the second place, it is held that the Senate, in performing the judicial function here involved, has the same incidental powers to compel the attendance of witnesses and issue warrants of arrest as would a court of justice under similar circumstances. The Court here cites the McGrain case to emphasize that the power to compel testimony is not less when in aid of the judicial functions of the Senate than when in aid of its legislative functions. Finally, the somewhat technical point is disposed of that the warrant of arrest was valid although no subpoena had been served upon Cunningham in the immediate proceeding. While such a subpoena is customary, it may be dispensed with when a witness seems likely to be obstinate or to escape from the jurisdiction. Cunningham's past conduct created the presumption that he would persist in his refusal to testify, and

[11] Art. 1, sec. 5, cl. 1.

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justified the more summary procedure. It was held not necessary to determine whether or not the questions to be asked of Cunningham would be pertinent to the inquiry in progress. The presumption is that the Senate would not ask irrelevant questions.

The case of Sinclair v. United States,[12] resulting in Mr. Sinclair's imprisonment for three months, did not involve the summary power of the Senate to punish an obstinate witness for contempt. It arose under an act of 1857[13] which makes it a misdemeanor for any witness summoned before either house of Congress (or any committee thereof) to give evidence or to produce papers upon any matter under inquiry, to refuse to come or to refuse to testify. Mr. Sinclair was convicted under the statute, and his conviction was sustained by the Supreme Court. An understanding of the facts involved is vital. Mr. Sinclair was head of the interests which secured the notorious Teapot Dome oil leases during the incumbency of Mr. Fall as Secretary of the Interior, in 1921. In 1922 the Senate embarked upon a series of investigations relating to the naval oil leases. It began by authorizing the committee on public lands to investigate the subject of the leases and report. This it followed by an authorization to require the attendance of witnesses and the production of books and papers. These resolutions of 1922 were continued in force by a resolution of 1923. In 1924 the committee was further authorized to ascertain if any additional legislation was desirable and to report to the Senate. The day after the passing of this Senate resolution, a joint resolution was approved by the President directing him to institute suits for the cancellation of the leases and contracts affecting the naval oil reserves and to prosecute such actions, civil or criminal, as the facts might warrant, and to appoint special counsel to have charge of the matter. During the course of these investigations Mr. Sinclair had appeared, at the request of the committee, and given evidence five times. After the passage of the joint resolution authorizing court action, he was subpoenaed to appear again. He did so, but he refused to give further evidence, partly on the ground that the questions asked related to his personal affairs, and partly on the ground that the instituting of legal proceedings by the operation of the joint resolution had placed the whole matter outside the competence of the Senate committee by making it a matter of judicial investigation. He did

[12] 279 U. S. 263.

[13] U. S. Code, title 2, sec. 192.

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not at any time set up any claim of protection against self-incrimination. He was indicted under the provisions of the statute above mentioned.

The opinion sustaining his conviction was written by Mr. Justice Butler. The Court pointed out how jealously private individuals are protected against being compelled to give evidence before legislative bodies upon matters which are not pertinent to the powers of those bodies and which relate to private and personal matters. All the leading cases on this point are set forth. But the Senate investigation in progress did not relate to Mr. Sinclair's private business alone; it had a definite bearing upon the public interest in lands and oil reserves and upon the measures which ought to be taken to protect those interests. The committee was well within its rights in making the investigation. Nor did the passage of the joint resolution divest the Senate of power to continue that investigation. There still remained open the question of what legislative policy ought to be followed in the premises. In answer to the contention that the questions which had been asked were not pertinent to any inquiry which was authorized, the Court pointed out that such questions were definitely pertinent to the committee's investigation touching the rights and equities of the United States in the lands involved. Nor was there any error in treating the question of the pertinency of the questions as a question of law rather than as a question of fact to be submitted to the jury. Finally, there is no merit in the contention that Mr. Sinclair should be given a new trial because the court below refused to admit evidence to show that in refusing to testify he acted in good faith upon the advice of counsel. "The gist of the offense is the refusal to answer pertinent questions. No moral turpitude is involved. . . . . There was no misapprehension as to what was called for. The refusal to answer was deliberate. . . . . He was bound rightly to construe the statute. His mistaken view of the law is no defense."

This case makes clear the thoroughly inept situation which prevails with regard to the power of the houses of Congress to compel testimony and to punish for contempt when the testimony is not given. Mr. Sinclair was asked to testify on March 22, 1924, and refused. By his refusal he was able to throw the question of compelling his testimony into the courts, and during its pendency there to block the investigation so far as that evidence was concerned. The question whether he should have given the evidence was not finally decided

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until the Supreme Court rendered its decision in the present case on April 8, 1929, after a lapse of over five years. On the other hand, when the Court finally rendered its decision holding that Mr. Sinclair should have answered the questions put to him, it was then too late for him to answer them and thus escape punishment. In short, a recalcitrant witness may block a congressional inquiry for so long a period as to make it practically ineffective; at the same time, such a witness, honestly believing that the committee has exceeded its proper authority in requiring his testimony, can test the committee's right to do so only by a process which places him under the inescapable risk of punishment if he guesses wrong as to the law. Those who followed the various incidents in the whole naval oil lease situation, and those who, in particular, read the castigation by the Supreme Court of the methods by which those leases were secured,[14] will find a certain irony in the fact that the offense for which Mr. Sinclair was finally punished was one which, in the words of the Court itself, did not involve "moral turpitude".

2. *National Taxation*

Two interesting cases involve the constitutional applicability of the federal inheritance or estate tax to certain transfers of property affected by the death of decedents. The first of these is Chase National Bank v. United States.[15] Sec. 401 of the Revenue Act of 1921 imposes a tax upon the transfer of the net estate of every decedent. In computing this, the gross estate must first be determined, and in such gross estates is included, amongst other classes of property, "the amount receivable by the executor as insurance taken out by the decedent upon his own life, and all over $40,000 of the insurance receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life." In this case, one Brown, for whom the plaintiffs are executors, held three insurance policies amounting to $200,000, naming his wife as beneficiary but reserving to himself the right to change the beneficiary. Upon his death, the tax collected included a sum based upon the inclusion in the estate of all but $40,000 of the proceeds from the three policies. A suit was instituted in the Court of Claims to recover the tax thus paid, on the ground (1) that the tax is direct, because it is levied upon the policies or their proceeds as property, and, being direct, is unconstitutional

[14] Mammoth Oil Co. v. United States, 275 U. S. 13.

[15] 278 U. S. 327.

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because unapportioned, and (2) because the method of collecting the tax and the measure of it are so arbitrary and capricious as to amount to a denial of due process of law, The Court, speaking through Mr. Justice Stone, upholds the tax against both contentions. The tax is in reality a tax on the transfer of the property, and not on the property itself. It is true that the interest which the beneficiaries of the policies had in them became "vested" in them before Brown's death. But until his death he retained the power to change the beneficiaries and dispose of the proceeds of the policies as freely as though he himself was named as beneficiary. Brown's death removed the possibility of the exercise by him of that power and brought about the passing to the beneficiaries of all rights under the policies free from any chance of change. Such passing or permanent vesting of the rights of the beneficiaries amounts to a transfer effected by the death of Brown, which is the proper subject of a transfer tax. In other words, the termination by the death of the insured of the right to change the beneficiaries amounted to a transfer of a valuable property right to such beneficiaries, and as such may properly be taxed. The objections to the tax based on the due process clause are found to be insubstantial and are disposed of by brief comment.

In Reinecke v. Northern Trust Co.,[16] a somewhat similar problem was presented. Sec. 402 of the Revenue Act of 1921 included in the gross estate of a decedent the amount of any interest with respect to which he has created any trust in contemplation of or "intended to take effect in possession or enjoyment at or after his death." In this case a man created two trusts long before the passage of the act. The income was to be paid to designated beneficiaries, but he reserved to himself full power to revoke the trusts and resume possession of the money. He also created five other trusts which established life tenancies in the income to the beneficiaries, with remainders over. In these cases he reserved to himself only a power to revoke or modify the trust upon the consent of the beneficiaries where but one was named or a majority of the several named in one of the trusts. The Court held the transfer tax applicable to the "two trusts," but not to the "five." The distinction is found in the theory of the preceding case. In the case of the two trusts, there occurred at the donor's death an absolute vesting in the several beneficiaries of the rights created by the trust, free from the donor's power of revocation or alteration which

[16] 278 U. S. 339.

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had existed during his lifetime. This amounted to a transfer to the beneficiaries, which is properly the subject of a transfer tax. In the case of the "five trusts," revocation or modification is possible only by the consent of the beneficiaries, which puts them safely beyond the donor's control so far as those beneficiaries are concerned. Consequently, no interest passes to them at his death which had not previously vested in them under the terms of the trusts. Accordingly, there is not transfer at death, but an outright gift effected before death, and in this case admittedly not in contemplation of death. Nor is the court willing to include within the reach of the tax the transfer after the donor's death of the possession or enjoyment of the trust fund from the life tenant to the remainder men. This is held to be a gift *inter vivos,* absolute and complete, "which takes the form of a life estate in one with remainder over to another at or after the donor's death." There is no indication that the statute was intended to include such a gift, and there is grave doubt as to its validity if interpreted as doing so; consequently the five trusts are beyond the reach of the law.

3. *Ceded Districts*

The exclusive jurisdiction which the federal government enjoys over ceded districts[17] is reaffirmed in Arlington Hotel v. Fant.[18] The exclusive jurisdiction is here so exerted as to defeat a claim for loss by fire against the hotel, located in the ceded district, under a statute of Arkansas passed after the cession of the district. The original plaintiff attacked the validity of the cession purporting to establish exclusive federal jurisdiction on the ground that the use of the land for a hotel located near a federal military hospital was not among the purposes stated in the Constitution, which comprise "the erection of forts, magazines, arsenals, dockyards and other needful buildings." The Court held the hospital and accessories, including the hotel, to be properly appurtenant to the constitutional purposes just mentioned. It accordingly declined to pass upon the contention of the appellant that Congress has full right to treat land acquired by cession from the states as though it had always been subject to exclusive federal jurisdiction and govern it under the authority given by Article IV "to make all needful rules and regulations respecting the territory and other property belonging to the United States." It had been urged

[17] Const., art. 1, sec. 8, cl. 17.

[18] 278 U. S. 439.

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in reply that Congress could use ceded districts only for the specific purpose for which the cession had been made. The question may become one of importance, since it involves the status of several national parks which have been created by Congress, and over which exclusive jurisdiction has been conferred by cession of the state.

III. JUDICIAL POWER

The case of Wisconsin et al. v. Illinois[19] is the culmination of an unusually important and interesting interstate controversy. It arose technically from a bill filed by Wisconsin, Minnesota, Michigan, Ohio, Pennsylvania, and New York, asking that Illinois and the Sanitary District of Chicago be enjoined from withdrawing 8,500 cubic feet of water a second from Lake Michigan at Chicago, on the ground that such diversion has lowered the water level in the Great Lakes some six inches, to the great injury of the complainant states. Six states on the Mississippi joined Illinois as defendants, on the ground that the diversion of water through the Chicago Drainage Canal into the Mississippi has improved the navigability of that stream, and that such improvement could not now be withdrawn. The case has an interesting history, which may be sketched briefly.

As early as 1822, the project of connecting Lake Michigan and the Mississippi basin by a canal through the Chicago and Des Plaines Rivers was considered, and in 1848 such a canal was completed. The water necessary to operate the canal over the divide was pumped from the Chicago River. By 1865 the problem of sewage disposal in Chicago became acute. The Chicago River was sluggish and became offensive by reason of receiving the sewage of the growing city. The flow of water from the lake, through the Chicago River and the canal, was increased, and the summit level of the canal lowered. But the relief was inadequate and the river became again polluted. Thereupon, in 1881, the Illinois legislature authorized the pumping of not less than 1,000 cubic feet of water a second through the river and canal. This worked well for a few years, but between 1886 and 1891 the level of Lake Michigan fell two feet, so that the capacity of the pumps was reduced and the nuisance again became acute. Accordingly, a drainage canal large enough to ensure adequate disposal of Chicago's sewage, and also provide a navigable waterway for boats of 2,000 tons burden, was proposed. At the same time (1889), the

[19] 278 U. S. 367.

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Sanitary District was created; and under its authority the Drainage Canal was constructed and opened for use in 1900. This canal reversed the flow of the Chicago River. The legislature was authorized by an amendment to the Illinois constitution in 1908 to provide for the construction of a deep waterway over part of the canal route and to lease the water-power made available. In the meantime, all the sewage from the Sanitary District, including Evanston, was turned into the canal and the water taken from Lake Michigan was increased from 2,541 feet a second in 1900 to 6,888 feet in 1926. The cost of the undertaking to the Sanitary District has been $109,021,613.

All this had not gone forward, however, without the knowledge, and occasional interference, of the federal government, which was interested, not only in the establishment of a navigable waterway across the divide, but also in protecting the lake ports and the navigability of the lakes and tributary streams. In the 80's and 90's, surveys and improvements in channel and harbor were authorized by Congress to be carried out through the Secretary of War. Various permits for withdrawal of water from the lake were given by the Secretary, reaching a maximum (save one to meet a temporary emergency) of 4,167 cubic feet a second in 1901. During these years federal engineers were studying the effect of the withdrawal of water on the lake level, and in 1905 they reported to Congress that the withdrawal of 10,000 feet per second would lower the level six inches. Subsequently, the Sanitary District applied for a greater flow of water than 4,167 feet, and was refused. As the District showed signs of going forward with its plans for the increased flow, the government brought suit to enjoin it. Two later petitions for more water were denied. A second injunction action by the government was joined with the earlier one, but both of them dragged in the federal district court in Chicago for six or seven years, and finally the injunction was issued and affirmed by the Supreme Court on appeal in Sanitary District of Chicago v. United States[20] in 1925. This injunction forbade taking more than 4,167 feet of water, the injunction to be effective in sixty days without prejudice to any permit which might be issued by the Secretary of War according to law. Immediately a petition was made to the Secretary to authorize 10,000 cubic feet withdrawal. In March, 1925, the Secretary issued a permit to take not more than 8,500 feet per second, on condition that the city of Chicago immediately take steps to dispose

[20] 266 U. S. 405. See comment in this *Review*, vol. 20, p. 82.

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of one-third of its sewage, the permit to be revocable if this condition was not met. The condition has been complied with.

The present action by the six complainant states rests upon both constitutional and statutory grounds. It is alleged, on the constitutional side, (1) that the power over interstate commerce does not extend to the transfer of the navigable capacity of the Great Lakes to the Mississippi basin; (2) that the diversion is contrary to the clause forbidding preference of the ports of one state over those of another; and (3) that the injuries to the complaining states deprive them and their citizens, without due process of law, "of the natural advantages of their position," and are contrary to their sovereign rights as members of the Union. The permit of the Secretary to take 8,500 feet of water is also attacked as in excess of his power.

Upon the filing of the bill, the court appointed Mr. Charles Evans Hughes master to take evidence and report to it upon the merits of the controversy. This report shows a lowering of the levels of Lakes Michigan and Huron by about six inches under the 8,500 feet diversion, and of the levels of Lakes Erie and Ontario by about five inches. To divert 10,000 feet would lower these levels about one more inch. To cease the diversion would restore the levels in about five years. The report deals elaborately with the actual damage caused by the lowering of the levels. So far as navigation is concerned, it shows that the loss of six inches of draft for one year (1923) could be computed at about 4,000,000 tons at a waterhaul rate of 88 cents.

The court found it unnecessary to pass upon the constitutional objections urged against the diversion. It found that the statutes authorizing the Secretary of War to permit diversion of water have over a long period of time (since 1890) been construed to mean that the discretion thus vested in him is to be used in aid of the navigability of streams and waterways and the removal of obstructions therefrom. It was never contemplated that such power should be used to aid the sanitation of cities. The permit of 1925 authorizing the 8,500 feet diversion was both temporary and conditional. As such, it can be sustained as an exercise of power to protect the navigability of the Lakes, because the sudden cessation of the flow would so pollute Chicago harbor as to make navigation there impossible. A small diversion necessary to maintain the navigability of the Chicago River and canal can be permanently sustained. The larger diversion, made necessary by the defiance of the Sanitary District of the earlier permit

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for 4,167 feet, can be only temporary. Accordingly, the decree of the Court is that the District must at once proceed to reduce the diversion, construct other means of disposing of sewage, and itself adjust the small flow of water necessary to maintain navigation. The precise method of accomplishing this will require expert determination, and the case is accordingly referred back to the master to examine the matter further and report a proper form of decree which will, as effectively and as speedily as possible, give the complaining states the relief sought. The Mississippi River states joined with Illinois as defendants were held to have no rightful interest in the diversion.[21]

The constitutional status of the Court of Customs Appeals is discussed in an able opinion by Chief Justice Taft in the case *Ex parte* Bakelite Corporation.[22] It is there held that that tribunal belongs to the class of courts which are known as "legislative courts," rather than to the class of "constitutional courts" created under the authority of Article III. Under Section 316 of the Tariff Act of 1922—a section described by the Court as "long and not happily drafted"—the Court of Customs Appeals is given the power to review questions of law involved in the findings of the Tariff Commission as to unfair practices involved in the importation of goods. The petitioners sought a writ of prohibition to prevent the exercise of this jurisdiction by the Court of Customs Appeals, on the ground that that tribunal is created by Congress under the authority of the judiciary article as an "inferior court" and cannot therefore be given jurisdiction over any proceedings which are not a case or controversy within the meaning of that article, and that an appeal from the finding of the Commission is not such a case or controversy but is merely an advisory opinion rendered in aid of executive action. The Chief Justice carefully distinguishes the legislative and constitutional courts, a distinction which has been recognized ever since the legislative status of territorial courts was proclaimed by Marshall in American Insurance Co. v. Canter[23] in 1828. A survey is given of the various legislative courts which have from time to time been set up, and special attention is given to the Court of Claims, which has much in common with the Court of Customs

[21] On December 17, 1929, Mr. Hughes filed his report with the Supreme Court. His recommendation is that Chicago must be ready to dispose of its own sewage by artificial means in nine years, and that thereafter a diversion of not over 1,500 cubic feet per second be allowed. *U. S. Daily*, December 18, 1929.

[22] 279 U. S. 438.

[23] 1 Peters 511.

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Appeals. If the Court of Customs Appeals is a legislative court, then of course the tenure of the judges may be controlled by Congress instead of being governed by the life tenure provisions of Article III. But the fact that Congress did not see fit to establish term appointments for the judges does not mean that the court is a constitutional court, for its status is determined, not by legislative intention regarding it, but by the power under which it was created and the jurisdiction conferred upon it. Since the Court of Customs Appeals is a legislative court, it is immaterial whether the proceeding under the provision of the tariff act is a case or controversy within the meaning of the Constitution, since the limitations of Article III apply only to constitutional courts.

One point of interest in the opinion of the Chief Justice is his allusion to the case of Miles v. Graham[24] in discussing the status of the Court of Claims. Miles v. Graham applied to the salary of a judge of the Court of Claims the holding of Evans v. Gore[25] to the effect that the imposition of a federal income tax upon the salaries of federal judges is a diminution of compensation within the meaning of Article III. It would seem that the compensation clause of Article III could apply only on the assumption that the judge in question was a judge of a court established under the authority of that article. The Chief Justice does not attempt to resolve this apparent inconsistency, but merely says that the opinion in Miles v. Graham "does not show" that this court's attention was drawn to the question whether that court is a statutory or a constitutional court. . . . . Certainly the decision is not to be taken in this case as disturbing the earlier rulings or attributing to the Court of Claims a changed status.

The difficulties of Mr. Sinclair did not end with the case which has been discussed above. A different sort of trouble was in store for him in Sinclair v. United States.[26] In October, 1927, he and Mr. Fall were placed on trial in Washington on a charge of conspiracy to defraud the government. As soon as the jury was sworn, Mr. Sinclair asked an associate of his, Mr. Day, to secure from the William J. Burns Detective Agency in New York the services of some fifteen detectives, under the supervision of a captain, to come to Washington to shadow the jurors and make a daily report upon their movements outside the court-

[24] 268 U. S. 501. See comment in this *Review*, vol. 20, p. 83.
[25] 253 U. S. 245. See comment in this *Review*, vol. 14, p. 641.
[26] 279 U. S. 749.

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room. This was done with thoroughness and despatch. The jurors were followed about, without the knowledge of the court, of Mr. Sinclair's counsel, and in some cases of the juror himself. The detectives secured information about encumbrances on the home of one of the jurors, about the families and neighbors of others. There was no evidence that any juror was approached by any detective, or that any "contact," was made. In fact, the detectives' instructions seem to have precluded this. But one of the number produced a false affidavit which alleged that one of the jurors had had a conference out of court with one of the counsel for the government. Ultimately the situation was brought to the attention of the trial judge, who declared a mistrial. Sinclair, Day, and the two Burnses were thereupon charged with contempt of court arising out of these transactions, and Sinclair was sentenced to six months' imprisonment, Day to four months, and fines were imposed on the Burnses.

The case was brought before the Supreme Court upon certiorari and the convictions were sustained, save in the case of William J. Burns, against whom the evidence of complicity was inadequate. The defendants alleged that no contempt was committed, because no juror had been approached and there was no evidence to show that the surveillance influenced the mind of any juror so as to obstruct or impede justice. This defense was overruled. The test of whether a contempt tending to obstruct justice has been committed is to be drawn from the normal and usual tendency of the conduct under attack, and the Court points out that the mere suspicion upon the part of a juror that he was being dogged by a detective would "destroy the equilibrium of the average juror and render impossible the exercise of calm judgment upon patient consideration." The acts complained of were committed sufficiently near the court to fall within the statutory definition of a contempt. As the Court puts it, "there was probable interference with an appendage of the court while in actual operation; the inevitable tendency was towards evil, the destruction, indeed, of trial by jury." The defendants sought to be allowed to prove that the Department of Justice, in important cases, frequently had jurors shadowed, and that what was lawful for the government could not be held illegal for a private individual. The Court held that the refusal of the trial court to hear evidence on this point was correct. The Department of Justice "is not lawmaker and mistakes or violations of law by it give no license for wrongful conduct by others."

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Wyoming established a highway commission with full authority over the construction and improvement of the highways of the state. The statute provided that the commission "shall have power to sue in the name of the State Highway Commission of Wyoming, and may be sued by such name in any court upon any contract executed by it." Five years later, the liability to suit was restricted to cases brought in the courts of the state. Before this change was made, the defendant in error, a Utah corporation, brought action against the commission in the federal district court on a contract. The petition alleged that the company is a citizen of Utah, that the commission and its members are citizens of Wyoming, and that more than $3,000 is involved, so that the district court has jurisdiction upon the ground of diversity of citizenship. The Supreme Court held in State Highway Commission v. Utah Construction Co.,[27] that the suit is in reality a suit against the state of Wyoming, since the commission was "but the arm or *alter ego* of the state, with no funds or ability to respond in damages." No consent upon the state's part could affect the question of diversity of citizenship, since a state is not a citizen. No other ground of jurisdiction was asserted, and therefore there was no jurisdiction.[28]

IV. STATUTORY CONSTRUCTION

1. *The O'Fallon Case*

The most conspicuous, and perhaps the most important, decision rendered during the 1928 term did not involve any constitutional question but merely a point of statutory construction. This was in

[27] 278 U. S. 194.

[28] The strictness with which the Court enforces the general principle of the immunity of the government from all liability for tort not voluntarily assumed by specific statute is emphasized in Boston Sand and Gravel Co. v. United States, 278 U. S. 41. A special statute allowed the plaintiff to sue the federal government in admiralty to recover damage for the injury to the plaintiff's boat which had been run into by a United States destroyer. It instructed the Court to determine the whole case "upon the same principle and measure of liability with costs as in like cases in admiralty between private parties." While admittedly the plaintiff could have collected interest on the damages against a private defendant, and while the government itself could similarly collect interest had it incurred the loss, the Court holds that the plaintiff is not entitled to the interest. This result is based upon the long continued statutory policy of the government in such cases, which the Court believes must compel a strict construction of the present statute against the plaintiff's claim. Four justices dissented in a strong opinion urging that the present statute should be enforced "according to its plain terms."

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the O'Fallon case,[29] in which, by a five to three decision, the Court set aside an order of the Interstate Commerce Commission placing a value upon the O'Fallon road as a basis for the recapture of excess earnings under the Transportation Act of 1920. The Commission's method of computing this value was held to violate the direction laid down by Congress and by the Court. Since it was the method by which the Commission was proceeding to value all the railroad properties of the country, the importance of the case is at once apparent.

The act of 1920 authorized the recapture by the government of one-half of the net earnings of any railroad in excess of six per cent upon the ascertained value of the property devoted to public service. The Interstate Commerce Commission was ordered to determine the value of railroad property as the base upon which these earnings should be computed. This it is to do "from time to time," and as often as necessary. In determining this value, it is directed by the act to "give due consideration to all the elements of value recognized by the law of the land for rate-making purposes, and shall give the property investment account of the carriers only that consideration which under the law it is entitled to in establishing values for rate-making purposes."

In pursuance of this provision, the Commission placed a value on the property of the O'Fallon road, a railroad with less than nine miles of main track, constructed before 1900, with five locomotives, operating largely with second-hand equipment, and dependent for most of its traffic on the output of a few coal mines. The value set was under one million dollars. The Commission ordered, on this basis, a recapture of excess earnings made during the years 1921 to 1924. The present case is brought to set aside this order.

The only question is whether the Commission properly valued the road. The method of valuation employed seems to have been substantially as follows. The Commission found what it would have cost to reproduce the road in 1914. It then computed the actual cost of additions and improvements since that time and deducted for depreciation. It valued the land at present prices. The Commission, however, declares in its order that it reached its valuation figures, "not by the use of any formula, but after consideration of all relevant facts."

The majority of the Court, in a brief opinion by Mr. Justice McReynolds, held that the Commission is required by the statute to give

[29] St. Louis and O'Fallon R. Co. v. United States, 279 U. S. 461.

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"due consideration" to "the present cost of construction or reproduction," since this has been repeatedly held by the Court to be an essential element of railroad property value for rate-making purposes. The Commission in its report "carefully refrains from stating that any consideration whatever was given to present or reproduction costs;" the dissenting members of the Commission state that such reproduction costs were not considered; and the majority report seems to bear this out. The Commission was ordered by the statute to give due consideration, in valuing the properties, to "all elements of value recognized by the law of the land for rate-making purposes." One of these elements the Court has held to be present reproduction cost. This it seems not to have considered. Therefore its order, based on a valuation improperly arrived at, must be set aside.

The decision in the O'Fallon case has been most bitterly attacked. No more effective criticism of it will be found than in the very long dissenting opinion of Mr. Justice Brandeis and the short dissent of Mr. Justice Stone, in both of which Mr. Justice Holmes concurred. The substance of this criticism is that the Commission was not obligated to make reproduction costs the sole, or even major, element in determining value—that it was required merely to give such costs "due consideration," which implied a wide discretion as to the weight, if any, they should bear under all the circumstances. An elaborate résumé of legislative history is made to show that this is what Congress intended. It seems clear that the Commission did give "due consideration" to reproduction costs, although it did not use them, and severely criticized their use, as an exclusive measure of value. If used as the sole measure of value, the railroads of the country in 1920 would have been valued at some forty billion dollars, an amount far in excess of what they could possibly earn a fair income upon. But if the Commission does not have to use reproduction cost as the sole measure of value, and it be admitted that it did, in its report, pay some attention to those costs, but not enough, then how much weight is it obliged to allow them? And herein lies the most vulnerable aspect of the majority opinion, that it leaves this vital question unanswered. No one seems to know what it means. The Commission is forbidden to proceed along the line pursued in the O'Fallon case, but is left without any definite plan to follow in the future.

One cannot help agreeing with the opinion expressed by Mr. Justice Stone that "had the Commission not turned aside to point out in its

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report the economic fallacies of the use of reproduction cost as a standard of value for rate-making purposes, which it nevertheless considered and to some extent applied, I suppose it would not have occurred to anyone to question the validity of its order." Whatever uncertainties may have been injected into the valuation situation by this decision, we are at least fairly certain that it is unsafe for an administrative commission to try to criticize the economic theory of the Supreme Court, especially when that economic theory has become part of "the law of the land."

2. *Naturalization*

The case of United States v. Schwimmer[30] upheld the denial of citizenship papers to a highly educated Hungarian woman, over fifty years of age, who is an outspoken pacifist, and who is willing to take the oath of allegiance only with the reservation that she would never personally take up arms. The statute requires an oath from the applicant for citizenship "that he will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same."[31] Mrs. Schwimmer declared her willingness to assume every obligation of American citizenship except that of fighting. If American women should be asked to fight, she would refuse, not because of sex or age, but because of conscientious objection to war. She is a lecturer and writer, and has used, and intends to continue to use, her influence for the abolition of war. The Court, speaking through Mr. Justice Butler, held that she was properly denied citizenship. It is the duty of citizens to defend the government, by force of arms if necessary. Such defense is imperilled by the influence of conscientious objectors and others who teach that one should not fight. The influence of Mrs. Schwimmer would weaken our national defenses; her views indicate an inability to swear whole-hearted allegiance.

Mr. Justice Holmes dissented briefly. He failed to see how her unwillingness to fight affects her oath, since she would not be allowed to fight if she wanted to do so. The fact that she desires to change our government by making war impossible shows no want of attachment to the Constitution. "I suppose that most intelligent people think in [the Constitution] might be improved. Her particular improvement

[30] 279 U. S. 644.

[31] Naturalization Act of June 16, 1906, 34 Stat. at L. 597; U. S. Code, title 8, sec. 381.

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looking to the abolition of war seems to me not materially different in its bearing on this case from a wish to establish cabinet government as in England, or a single house, or one term of seven years for the President. To touch a more burning question, only a judge mad with partisanship would exclude because the applicant thought that the Eighteenth Amendment should be repealed.'' The optimistic view of Mrs. Schwimmer that war will ultimately disappear does not make her a worse citizen. One of the principles of the Constitution is that of freedom of thought—''not free thought for those who agree with us but freedom for the thought we hate.'' The Quakers have done much for the country; many citizens agree with Mrs. Schwimmer's views; ''and I had not supposed hitherto that we regretted our inability to expel them because they believe more than some of us do in the teachings of the Sermon on the Mount.''

V. TREATIES

Karnuth v. United States[32] involved the right of the federal immigration authorities to exclude from this country Canadians who had been in the habit of coming across the international boundary daily in the course of permanent employment. An order of the department had put a stop to this. The order was attacked as a violation of the Jay treaty of 1794, which guaranteed to British subjects and American citizens the right freely to cross the border. It was also urged that Canadians employed on this side fell within the clause in the Immigration Act of 1924 excepting from exclusion, save under quota, aliens visiting the United States ''temporarily for business or pleasure.'' On appeal from the district court, the Circuit Court of Appeals held the departmental order of exclusion void. At first, the petition for review by certiorari in the Supreme Court was denied.[33] Later, the vast importance of the question in its effect upon our whole immigration policy was presented to the Court and a certiorari issued.[34] The Supreme Court sustained the order of exclusion. The alleged conflict between such a regulation and the Jay treaty was carefully examined. It was held that the clause for mutual free crossing of the border was of a nature incompatible with a state of war, and must be deemed to have been abrogated by the War of 1812. In view of the

[32] 279 U. S. 231.
[33] 278 U. S. 607.
[34] 278 U. S. 594.

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known purpose of Congress in passing immigration laws to protect American labor from alien competition, the Court also held that the term "business," in the clause allowing aliens to enter "temporarily for business or pleasure," must be held to mean intercourse of a commercial character and not the performance of labor for hire.[35]

B. QUESTIONS OF STATE POWER

I. FOURTEENTH AMENDMENT

1. *Due Process of Law*

a. *The Police Power.* A Pennsylvania statute of 1927 provided that every pharmacy or drug store shall be owned only by a licensed pharmacist, and that in the case of corporations or partnerships all the partners or members shall be licensed pharmacists, except that drug corporations and partnerships now lawfully doing business in the state may continue to do so on the present basis. The Liggett corporation, chartered in Massachusetts, already owned numerous drug stores in Pennsylvania, but after the passage of the act it purchased two more which it proposed to run through pharmacists duly licensed by Pennsylvania. Not all of the members (stockholders) of the corporation were registered pharmacists, and consequently the Pennsylvania state board of pharmacy refused a permit to carry on the business. The plaintiffs sought to enjoin the enforcement of the statute against them, on the ground that it violates the due process clause of the Fourteenth Amendment. The Supreme Court in Liggett Co. v. Baldridge,[36] holds the act void. Mr. Justice Sutherland, speaking for the Court, ob-

[35] A treaty between the United States and Japan authorizes Japanese citizens to carry on trade in this country and "to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native citizens or subjects. . . . ." This provision is construed by the Court in Jordan v. Tashiro, 278 U. S. 123, to include the operation of a hospital upon a business basis and the leasing of land for that purpose by a corporation composed of Japanese subjects. The secretary of state of California, who had refused to grant the corporate charter asked for on the ground that the alien land law of the state did not permit incorporation of respondents for the purpose named, is accordingly compelled by mandamus to do so. The Court holds that the treaty must be liberally construed to effect the purposes of the contracting parties, and that, so construed, a hospital operated as a business undertaking must be deemed to be included within the meaning of the terms "trade" and "commerce."

[36] 278 U. S. 105.

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serves that the plaintiff's business is a property which cannot be arbitrarily controlled or burdened. The alleged justification for the act is that it promotes the public health. "The determination we are called upon to make is whether the act has a real and substantial relation to that end or is a clear and arbitrary invasion of appellant's property rights guaranteed by the Constitution. . . . . What is the effect of mere ownership of a drug store in respect to the public health?" The Court sees no connection between the two. By long-standing regulations the public is protected against the dispensing of unwholesome or impure medicines, or the operation of drug stores by irresponsible and incompetent people. It has not been shown how the ownership of stock in a drug company by persons who are not pharmacists can affect the public safety or health. Chain drug stores have long existed owned by corporations whose stock is sold upon the exchanges and consequently falls into the hands of all sorts of people. No evidence has been shown that this has had any deleterious effect upon the public welfare. Consequently, the restriction is arbitrary and a denial of due process.

Mr. Justice Holmes (with Mr. Justice Brandeis concurring) dissented, upon grounds consistent with his well known philosophy of due process of law. While not necessarily holding that view himself, he says that it may reasonably be contended that there is a public interest in the relationship between the ownership of a business and its actual operation. If all the stockholders were druggists, they would scrutinize the business with a more intelligent eye than the casual investor, and the police power may legitimately demand this additional advantage of closer professional supervision.

In Roschen v. Ward[37] Mr. Justice Holmes, speaking for a unanimous court, held valid the New York statute of 1928 making it unlawful to sell spectacles, eyeglasses, or lenses for the correction of vision unless a duly licensed physician or qualified optometrist be in charge of and in personal attendance at the booth, counter, or place where such glasses are sold. The complainants alleged that they sold only convex spherical lenses, which merely magnify and can do no harm, that the cost of employing an optometrist would make the business unprofitable, and that the requirement of an examination is unreasonable and arbitrary. They also urged that the law is arbitrary in that it does not require an examination, but merely the presence of the optom-

[37] 279 U. S. 337.

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etrist at the place of sale. The Court construed the statute to mean that the optometrist must actually examine the eyes of customers or determine that such examination is unnecessary. The opinion points out that sinister motives cannot be imputed to the legislature in passing the law, and that much good will be achieved if eyes are examined in many cases where they have not been. The balancing of the advantages and disadvantages is for the legislature and not the courts, and there is no denial of due process of law.

It seems obvious that the Supreme Court does not intend to have the generous decision by which it sustained the general features of a municipal zoning ordinance in the case of Euclid v. Ambler Realty Company[38] interpreted to mean that all municipal zoning ordinances are valid in their entirety. At the last term of Court it held, in Nectow v. Cambridge,[39] that such an ordinance, valid in its general scope and application, could not validly be applied to a particular piece of property in an arbitrary and unreasonable manner. A similar result is reached in Seattle Trust Co. v. Roberge.[40] The case arose from a petition to mandamus the defendant, the superintendent of buildings of Seattle, to issue a permit to the plaintiff to build in the "first residence district" a building to be used as a philanthropic home for the aged, to accommodate about thirty persons. The structure is to replace a smaller building now used for the same purpose. The "first residence district," one of six such districts created by the comprehensive zoning ordinance of Seattle, permitted in that district single family dwellings, public schools, churches, parks, playgrounds, an art gallery, and under certain restrictions other establishments necessary to the community life of the neighborhood. By a special amendment to the ordinance it was provided that a philanthropic home for children or old people might be erected in the district when the written consent of the owners of two-thirds of the property within four hundred feet of the proposed building had been obtained. The plaintiff did not secure such consent and the defendant refused to issue the building permit. The Supreme Court, speaking through Mr. Justice Butler, held the ordinance void in its application to the plaintiff, on the ground that the delegation of power to the property-owners involved, in making their consent necessary for the erection of the home, amounted

[38] 272 U. S. 365. See comment in this *Review*, vol. 22, p. 94.
[39] 277 U. S. 183. See comment in this *Review*, vol. 23, p. 90.
[40] 278 U. S. 116.

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to a denial of due process of law. The facts disclose that the exclusion of the new home is not necessary to the general zoning plan. In fact, the ordinance implies the contrary by setting up a condition under which it may lawfully be erected. Nor is there any suggestion or evidence that the home would be a nuisance. The right of the plaintiffs to use their property for a legitimate purpose not inimical to the public welfare is made entirely subject to the consent of the nearby owners, who "are not bound by any official duty, but are free to withhold consent for selfish reasons or arbitrarily, and may subject the trustee to their will or caprice. The present ordinance is distinguished from the Chicago billboard case (Cusack Co. v. City of Chicago),[41] which upheld an ordinance forbidding the erection of billboards in residence districts except upon the consent of the owners of a majority of the frontage in the block, on the ground that in that case there was warrant for the conclusion that the billboards "would or were liable to endanger the safety and decency of such districts."

There is no denial of due process in a municipal ordinance requiring that all tanks within the city limits for the storage of petroleum products or other inflammable liquids be buried at least three feet under ground. Exceptions were made for crude oil, fuel oil, and small quantities of gasoline, petroleum, etc. A master appointed by the court below had presented a careful report. From it the court found that large storage tanks were a fire menace, that the burying of such tanks in the city of Marysville was practicable without serious danger or loss, and that the burden on the plaintiff oil company was not greater than would be the case were they obliged to move their tanks outside the city limits, which under the police power might be required. Accordingly, the ordinance did not go beyond the limits of legislative discretion. This is the case of Standard Oil Co. v. Marysville.[42]

No denial of due process of law nor burden on interstate commerce is involved in enforcing against an interstate railroad which crosses city streets an ordinance requiring a flagman to be on duty night and day to warn approaching traffic. This is true in spite of the fact that the company has installed a device cheaper and in some ways better than the old method, by which a light is automatically flashed at the side of the road and a bell is sounded when trains approach. Mr.

[41] 242 U. S. 526.
[42] 279 U. S. 582.

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Justice Holmes, speaking for the Court in Nashville, etc. Ry. v. White,[43] says that "there is a marginal chance that occasionally a life may be saved" by the presence of the flagman, and therefore the legislation cannot be held "indisputably unnecessary and unreasonable."

b. *Taxation.* A Maryland statute required those who buy oysters and prepare them for market at a fixed place to take out a license fee, to turn over to the state annually ten per cent of the shells (to be removed by the state by August 20), or, at the discretion of the conservation department, to pay the equivalent in money. In Leonard v. Earle,[44] this law is held valid. It is a legitimate exercise of the power of the state to impose a privilege tax. There is nothing in the federal Constitution to prevent the collection of state taxes in kind. That the shells are needed as a means of replenishing the oyster beds gives the measure added force as a police regulation. There is no arbitrary classification and no interference with interstate commerce.

c. *Regulation of Public Utilities.* In Williams v. Standard Oil Co.[45] the Supreme Court applies the rule and philosophy of Tyson & Bros. v. Banton[46] to a Tennessee statute of 1927 fixing the price of gasoline. The act is held void as a denial of due process of law, on the ground that the business of selling gasoline is not "affected with a public interest." While the Court relies almost entirely upon the earlier opinion in the theater ticket case, one brief paragraph from Mr. Justice Sutherland's opinion may be quoted here. "Nothing is gained by reiterating the statement that the phrase ("affected with a public interest") is indefinite. By repeated decisions of this Court, beginning with Munn v. Illinois, 94 U.S. 113, that phrase, however it may be characterized, has become the established test by which the legislative power to fix prices of commodities, use of property, or services, must be measured. As applied in particular instances, its meaning may be considered both from an affirmative and a negative point of view. Affirmatively, it means that a business or property, in order to be affected with a public interest, must be such or be so employed as to justify the conclusion that it has been *devoted* to a public use and its use thereby in effect *granted* to the public. . . . . Negatively, it does not mean that a business is affected with a public interest merely be-

[43] 278 U. S. 456.
[44] 279 U. S. 392.
[45] 278 U. S. 235.
[46] 273 U. S. 418. See comment in this *Review*, vol. 22, p. 92.

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cause it is large or because the public are warranted in having a feeling of concern in respect to its maintenance." The Court does not find that the sale of gasoline is different from the sale of other commodities in such a way as to place it within the phrase "affected with a public interest."

The last part of the opinion is devoted to a most valuable discussion of the problem of partial invalidity of statutes. The statute in question, besides authorizing the fixing of prices, created a division of motors and motor fuels, with power to collect and record elaborate data regarding manufacture and sale of gasoline, freight rates, costs and expenses, price differentials, etc. It also forbade discrimination in price between persons or localities and prohibited rebating. It further stipulated that "if any section or provision of this act shall be held to be invalid this shall not affect the validity of other sections or provisions hereof." The Court is accordingly urged to leave in effect the provisions of the act except the price-fixing clause. The Court declines to do this, holding that the other sections of the statute have no independent purpose apart from the regulation of price. They hold, as they previously held in Hill v. Wallace,[47] that they are not bound by a legislative declaration of the separability of the parts of a statute. Without such legislative declaration, the presumption is that the statute is intended to be effective as an entirety. The legislative declaration destroys this presumption and sets up the opposite presumption of separability. But this presumption may be overcome by "considerations which make evident the inseparability of its provisions or the clear probability that the invalid part being eliminated the legislature would not have been satisfied with what remains." The Court finds that the statute is not in fact separable, and therefore holds it void. Whether the particular provision forbidding rebating and price discrimination might be held separable from the rest of the act, it is unnecessary to determine, since as applied to a business "not affected with a public interest" these provisions are void on the same grounds as the price-fixing clauses.

In Lehigh Valley R.R. v. Board of Commissioners,[48] an injunction was sought against an order of the commissioners requiring the railroad to eliminate two grade crossings and to substitute for them one overhead crossing at a cost to the company of $324,000. This was attacked

[47] 259 U. S. 44.
[48] 278 U. S. 24.

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as a burden on interstate commerce, a confiscation of property amounting to violation of due process of law, a denial of equal protection of law, and an impairment of the contract between the railroad and the state highway commission. The order was sustained. While negotiations had been going on between the highway commission and the railroad, beginning in 1922, and an informal agreement had been reached upon a plan for grade crossing elimination costing only $109,000, no contract was actually made. Consequently no contract was impaired. Later additions to the improvement raised the cost to $205,000, which was finally accepted by the railroad. The cheaper plan was disapproved by the board of public utility commissioners, on the ground that its execution would leave the highway under a railroad bridge with three six-degree curves inside half a mile and three depressions of five, seven, and ten feet. The roadways would be narrower and much less satisfactory. In short, the road was subjected to an additional cost of over $100,000 in order to make the road straight and level. This additional burden is held by the Court, under all the circumstances, not to be arbitrary. Chief Justice Taft emphasizes that "unreasonably extravagant grade crossings are to be enjoined not only as violations of the Fourteenth Amendment but also as forbidden by the Transportation Act;" he admits that "the case before us is one which is near the line of reasonableness," but "we think it does not go beyond that line." There is no denial of due process of law on the ground that the order of the board was not directly reviewable by a court having jurisdiction to determine independently on the law and facts whether there was actual confiscation under the Fourteenth Amendment, since it appears that any order of the board can be reviewed by the state supreme court on certiorari and set aside if there is no evidence to support the order. Mr. Justice McReynolds dissented on the ground that "to permit the commissioners to impose a charge of $100,000 upon the railroad under the pretense of objection to a six per cent curve in a country road is to uphold .... a plain abuse of power."

Those who expected the Supreme Court to settle the question of the five-cent subway fare in New York—a question which has played a highly spectacular part in recent New York City politics—were doomed to disappointment. The Interborough, which was seeking authority to increase subway fares to seven cents, was told in substance by the Court, in Gilchrist v. Interborough Co.,[49] that it had sought its

[49] 279 U. S. 159.

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relief there prematurely, that it had not exhausted its legal and administrative remedies in the state courts and before the state transit commission, and that no decision could be had on the merits of the question whether the five-cent fare was so confiscatory as to amount to a denial of due process of law. The record in the case is most voluminous, but the gist of the proceedings is as follows. The subway company applied to the state transit commission for permission to increase the subway fare. This was denied by the commission, on the ground that in view of certain contracts between the city and the subways the five-cent fare was guaranteed; and it instituted suit in the state court to prevent violation of the contract rate of five cents. This would have raised the question of the construction of the contract in the state court. It was not an action against which the company could secure injunctive relief, since it was merely a regular step in the direction of the adjudication of the questions which were moot. But the Interborough, not satisfied with this, brought its bill in the federal courts to restrain interference with the raising of the rate. The Supreme Court, with apparent relief, sent the case back to be worked through in an orderly and regular fashion.

A public utility seeking to have a rate set aside as confiscatory has the burden of proving clearly the value of the property upon which a fair return is sought. In United Fuel Gas Co. v. Railroad Commission,[50] a West Virginia corporation supplied the gas to consumers in Kentucky through a subsidiary Kentucky corporation. In order to prove the value of the West Virginia gas rights, so that a portion of it might be allocated to the subsidiary, the following method of valuation was employed. An estimate was made of the quantity of available gas in the lands, and a computation of the profits that would accrue if during the next eighteen years this gas were extracted, piped to a place in Pennsylvania where there was a market free from public regulation, and there sold at current prices. In addition, the West Virginia corporation made its earnings appear unduly low by a contract which unduly favored the subsidiary corporation, owned by the shareholders of the parent corporation. The Court held that neither resort to this device nor the employment of the method of valuation described could be made to prove that the rates fixed by the Kentucky railroad commission upon the sale of gas in that state were confiscatory. The valuation basis was held unsound, for it was made to

[50] 278 U. S. 300.

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depend on an assumed earning capacity which was highly speculative, since there was no assurance that prices would remain free from public regulation for a long period, and that gas in the amount estimated could be sold at the stipulated price in a market not yet established, despite future inventions and improved business and manufacturing methods, etc.

d. *Civil and Criminal Procedure.* In Manley v. Georgia[51] a statute which attempted to treat every bank insolvency as fraudulent and punish the president and directors unless they could convince the jury that the affairs of the bank had been "fairly and legally administered" was held wanting in due process because there is not sufficient rational connection between what is proved and what is inferred. Not all bank failures are of fraudulent origin, and the burden on the officers to disprove their guilt amounts to a serious invasion of their rights, particularly in view of the vague and general terms used to determine guilt or innocence. A very similar case is that of Western & A.R. Co. v. Henderson,[52] in which a legislative presumption that any collision between a train and any person or vehicle is due to the negligence of the railroad is held wanting in due process for lack of a rational connection between the fact proved and what is inferred from it. The mere fact of a collision creates no greater presumption of negligence on the part of the road than upon the part of the traveler on the highway.

2. *Equal Protection of the Laws*

In 1923 a New York statute was passed directed against the Ku Klux Klan. It provided that any corporation or association which requires an oath as a condition of membership, other than a labor union or a benevolent order covered by the benevolent orders law, must file with the secretary of state a copy of its constitution, by-laws, oath of membership, roster of members, and list of officers. Any person becoming or remaining a member of such a society, with knowledge that these requirements have not been complied with, is guilty of a misdemeanor. Bryant was held under this act for belonging to and attending meetings of the Buffalo branch of the Ku Klux Klan, which he knew had failed to file the required data with the secretary of state. He sued out a writ of habeas corpus on the ground that the statute was unconstitutional, and although the record showed some vagueness in alleging

[51] 279 U. S. 1.
[52] 279 U. S. 639.

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a federal question before the state courts, the Supreme Court, in Bryant v. Zimmerman,[53] held, over the dissent of Mr. Justice McReynolds, that a violation of the federal Constitution had been substantially pleaded, that the claim of federal right had been denied by the state court, and that the case was, therefore, properly before it on writ of error for review. It proceeded, accordingly, to a consideration of the merits. The act was attacked under all three clauses of the Fourteenth Amendment, but the Court rejected all three contentions. First, it reiterated the familiar doctrine that such a statute does not abridge the privileges and immunities of citizens of the United States, since the right to belong to a secret, oath-bound association, if it is a right of citizenship at all, is an incident of state, and not United States, citizenship. Secondly, the court finds no deprivation of liberty without due process of law. The requirements of the act are reasonably designed to give the state information necessary to its protection and useful to it "as a substantial deterrent from the violations of public and private right to which the association might be tempted if such a disclosure were not required." The requirement is not arbitrary or oppressive, "but reasonable and likely to be of real effect." Thirdly, the act does not deny the equal protection of the laws. This the Court felt was its most vulnerable point, and, speaking through Mr. Justice Van Devanter, it addressed itself to it with care and thoroughness. There is presented here an excellent summary of the tests which the Court applies to the question of equal protection, and the point is emphasized that classifications established by law need not be mathematically symmetrical, but that the legislature may validly "recognize degrees of harm, and may confine its restrictions to those classes of cases where the need is deemed to be clearest."

With this principle of flexibility of classification in view, the Court points out that the societies covered by the statute do in fact stand in a different relation to the public welfare from labor organizations or the benevolent orders, such as the Masons, Odd Fellows, Knights of Columbus, and Grand Army of the Republic. Quoting from the decisions of the state courts, it is stated to be "a matter of common knowledge that this organization functions largely at night, its members disguised by hoods and gowns and doing things calculated to strike terror into the minds of the people." The Court also relies upon the report of the hearings before the House committee which investigated the

[53] 278 U. S. 63.

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Klan, and which established, "putting aside controverted evidence," that the Klan "was conducting a crusade against Catholics, Jews, and negroes and stimulating hurtful religious and race prejudices; that it was striving for political power and assuming a sort of guardianship over the administration of local, state, and national affairs; and that at times it was taking into its own hands the punishment of what some of its members conceived to be crimes." These attributes and activities provide a real and substantial basis for the placing of requirements upon the Klan not imposed upon the other societies. Consequently there is no denial of equal protection of the laws. Nor is there valid objection to the act on the ground that it applies only to societies or associations having twenty or more members. Numerical classifications are very common and are legitimate, unless palpably unreasonable, which this one is not.

An interesting problem of classification is involved in Frost v. Corporation Commission.[54] Under Oklahoma law, cotton gins are public utilities, the operation of which must be licensed by the state corporation commission upon a showing of public necessity. By an act passed in 1925, the commission is directed to license a gin to be run coöperatively without showing of public necessity when a petition therefor is presented signed by one hundred citizens and taxpayers. An act of 1917 authorized the establishment of non-profit coöperatives for purposes of "mutual help" of those engaged in agriculture and horticulture. An act of 1919 provided for the establishment of corporations to carry on agricultural and horticultural business upon a coöperative plan. These were to be profit-making enterprises, with provisions for setting aside of some of the revenue for educational purposes and the apportionment of the residue pro rata among the members. There were restrictions as to dividend rates and stock ownership. Frost secured a license to operate a cotton gin, presumably upon a showing of public necessity. Later, the Durant Coöperative Gin Company was organized under the act of 1919 and was given a license without showing public necessity, but in accordance with the act of 1925. Frost sought to enjoin the granting of the license to the company. The Supreme Court sustains his contention that he has been denied property without due process of law and denied the equal protection of the laws. It holds that the license granted to him is a franchise, and therefore a property right, and is exclusive against any person attempting to operate a gin

[54] 278 U. S. 515.

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without a license or under a void license. The permit issued to the company is void because issued under a statute (that of 1925) which sets up an arbitrary classification in permitting the issuance of licenses to corporations without the showing of public necessity when such licenses are required of others. While admitting that coöperatives established under the act of 1917 might be validly licensed under the act of 1925, the majority of the Court do not believe that the coöperative profit-making corporations created under the act of 1919 are sufficiently distinctive in character and purpose to permit their valid exemption from the requirement of the showing of public necessity. In dissenting opinions by Justices Brandeis and Stone, concurred in by Justice Holmes, it is urged that the classification is valid in view of the unique character of the coöperative corporations, and that Frost is, in any event, not entitled to complain of a discrimination which does not injure him, since he has himself received his license.

II. CONTRACT CLAUSE

A modern version of the controversy involved in the famous Charles River Bridge Case,[55] decided in 1837, is presented in Larson v. South Dakota.[56] Larson secured from the county commissioners, upon payment for it, the exclusive term franchise to operate a ferry across the Missouri River in an area extending two miles in either direction from the landing point. Within the period of the franchise, the state constructed a free bridge across the river within the four-mile area, the result of which was, of course, to render the franchise and the plaintiff's investment under it substantially worthless. He alleged the impairment of the franchise contract. Speaking through Chief Justice Taft, the Court rejects his contention. Admitting that his franchise is a contract, it holds that the terms of it may not be enlarged by implication, and that an exclusive ferry franchise cannot be construed to cover all methods of travel and transportation across the water.

III. STATE POWER AFFECTING INTERSTATE COMMERCE

1. *State Police Power and Interstate Commerce*

A state police regulation purporting to effect the conservation of shrimp in Louisiana was held to impose an undue burden on interstate

[55] 11 Peters 420.
[56] 278 U. S. 429.

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commerce. This is the case of Foster-Fountain Packing Co. v. Haydel.[57] Most of the shrimp caught on the Louisiana marshes are immediately taken by boat to Biloxi, Mississippi, where there are large canning factories. Here the heads and hulls are picked off and the meat is canned. The heads and hulls are usually thrown into the sea, but some are made into fertilizer. The Louisiana statute declares the shrimps to be the property of the state and grants to residents and corporations operating canning factories or drying platforms the right to take them. It makes it unlawful to export any shrimps from which the heads and hulls have not been taken. But unshelled shrimp may be shipped to any point within the state. Shrimps without heads and hulls may be shipped out of the state, but the heads and hulls must not leave the state, since they are declared necessary to the state as fertilizer or chicken feed. The Court had no trouble in finding that the alleged purpose of conservation involved in the statute was largely fictitious, as the value of the fertilizer made from the heads and hulls, and the local demand for it, is very trivial. The real purpose and effect of the act was to prevent the shipping of shrimp to the Mississippi canneries in the condition in which they were there demanded and to stimulate the local canning industry. The Court distinguished the present case from Geer v. Connecticut,[58] in which a state law was upheld which forbade the shipping of wild game outside the state when it had been killed in violation of state law. This was a genuine conservation statute which kept the local product at home. But the Louisiana act does not do this. It allows the shrimp to be shipped out of the state, but only under conditions which imperil the business of the Mississippi canneries.

2. *State Taxation and Interstate Commerce*

A Kentucky statute imposed a tax of three, and later five, cents upon all gasoline sold at wholesale within the state for "purpose of resale, distribution, or for use," and also upon all gasoline bought outside the state and resold or used within the state. In Helson and Randolph v. Kentucky,[59] it was held that this tax could not be collected from a ferry company engaged in an exclusively interstate business which bought its gasoline in Illinois but used 75 per cent of it in Kentucky in the conduct of its interstate business. Such a levy amounts to a

[57] 278 U. S. 51.
[58] 161 U. S. 519.
[59] 279 U. S. 245.

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direct and unconstitutional burden upon interstate commerce. There is a careful review of the cases holding state taxes on interstate commerce void, and the present one is found to be within the general rules heretofore established. Justice McReynolds dissented without opinion, while Justice Stone, with whom Justices Holmes and Brandeis concurred, wrote a concurring opinion in which, while acquiescing in the result, he protests against "an interpretation of the commerce clause which would relieve those engaged in interstate commerce from their fair share of the expense of government of the states in which they operate by exempting them from the payment of a tax of general application, which is neither aimed at nor discriminates against interstate commerce."

An intricate case involving the meaning of "continuity of transit" in interstate and foreign commerce is that of Carson Petroleum Company v. Vial.[60] An attempt was made by the local tax assessor to tax oil owned by the plaintiff and stored in tanks waiting for export. All of the oil was brought into the parish from outside the state in tank cars and unloaded into the tanks, from whence it was loaded on tank steamers for shipment abroad. None was sold locally, nor did the oil remain in the tanks longer than necessary. The contention of the state that the unloading and reloading broke the continuity of transit and placed the oil temporarily under local jurisdiction was rejected by the Court. Earlier decisions have not been wholly consistent in dealing with this problem, but the Court finds a distinct tendency recently toward a liberal interpretation of continuity of transit, and accordingly holds the oil in this case free from local taxation.

The validity of state taxes imposed upon foreign corporations doing business within the state and engaged in interstate commerce was involved in several cases. The complicated facts involved make only a brief mention of the holdings possible here. In Cudahy Packing Company v. Hinkle,[61] a license fee was imposed upon the foreign corporation, based upon its authorized capital stock, although a very small amount of its property was located in the state and only a small amount of business was done there. The fee was limited to a fixed maximum. This was held to be a burden upon interstate commerce. In Great Northern Ry. v. Minnesota,[62] the state tax upon railroad property with-

[60] 279 U. S. 95.
[61] 278 U. S. 460.
[62] 278 U. S. 503.

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in the state, measured by a proportion of gross earnings computed by the ratio of mileage within the state to that of the entire system, was held good, and the failure of the state to allow a deduction from such gross earnings of an amount represented by the income from a dock located outside the state was upheld. In New York v. Latrobe,[63] and International Shoe Co. v. Shartel,[64] franchise taxes upon foreign corporations levied upon non par value stock at a fixed rate were upheld against the objection that they are discriminatory or interfere with interstate commerce.

In Hart Refineries v. Harmon,[65] it was held that local refineries of gasoline are not denied the equal protection of the law by the imposition of an excise tax upon the sale of gasoline, when imported gasoline is allowed to be used in the state without the payment of a tax.

IV. MISCELLANEOUS STATE AND FEDERAL RELATIONS

The strictness with which the Court is disposed to apply the rule of immunity of federal bonds from state taxation is emphasized in the case of Macallen Co. v. Massachusetts.[66] The state law imposed upon all domestic corporations, "with respect to the carrying on or doing of business by [them], an excise" which included an amount equal to two and one-half per cent of their net income. Previously, "net income" had been defined by law to exclude interest on federal bonds and securities. This exemption is now removed and "net income" is made to cover interest, not only on federal bonds, but also on state and municipal bonds which were specifically made tax-exempt when issued. The plaintiff is a Massachusetts corporation owning large numbers of Liberty bonds, farm loan bonds, and also county and municipal tax-exempt bonds. It attacked the validity of the tax as an interference by the state with a federal power and instrumentality, and as an impairment of the obligation of the contracts under which the county and municipal bonds were issued. The defense of the state was that the tax was not upon the bonds, nor upon the income from the bonds, but was upon the privilege of doing business within the state, and was merely measured by the value of the corporation's property and income —a type of tax sustained by many decisions for a period of some

[63] 279 U. S. 421.
[64] 279 U. S. 429.
[65] 278 U. S. 499.
[66] 279 U. S. 620.

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seventy years. The Court rejected the state's interpretation and found the tax invalid. It finds that the tax is in fact a tax upon the income from the bonds, and that the state has merely labelled it an excise tax measured by the amount of corporate income in order to enable it to do indirectly what it is not constitutionally able to do directly. This view is supported by the Court's interpretation of the legislative history of the tax. The tax on the income from the federal bonds is, therefore, void as a burden on the federal borrowing power, and the tax on the income from county and municipal tax-exempt bonds is void as an impairment of the obligations of contracts. Mr. Justice Stone, with Justices Holmes and Brandeis concurring, dissents on the ground that there was no intention on the part of the state to evade a constitutional restriction, and that the tax in this case is not different from others in which the state is permitted to tax the right to do business in accordance with the measure of property or income which is free from direct burden.

During the last few years, deer have increased in such numbers that they have injured young trees, bushes, shrubs, etc., on certain national forest and game preserves in Arizona. Accordingly, the Secretary of Agriculture authorized the killing of large numbers of deer and the shipment of their carcasses out of the state. This was done under authority conferred by statute. The plaintiffs, who were state officials, arrested the federal agents for killing the deer in violation of the state game laws and threatened to arrest and prosecute those who continued to do so. The government seeks an injunction to prevent this interference, and the Supreme Court upholds the injunction issued by the lower court on the ground that the power of the United States to protect its own property is beyond doubt and does not exist subject to the laws of any state. This is the case of Hunt v. United States.[67]

[67] 278 U. S. 96. Those interested in the work of the Supreme Court for the 1928 term should read the excellent article by Professors Frankfurter and Landis, "The Business of the Supreme Court at the October Term, 1928," in 43 *Harvard Law Review* 33 (November, 1929). Attention may be called also to the forthcoming volume by Gregory and Charlotte A. Hankin, *The United States Supreme Court—A Review of the Work of the Supreme Court of the United States for the Year 1928-1929*, to be published by Legal Research Service, Washington, D.C.

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LEGISLATIVE NOTES AND REVIEWS

EDITED BY CLYDE L. KING
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Recent Personnel Legislation. Practically all of the carefully considered personnel legislation of the last year or eighteen months has taken cognizance of the fact that, in the more populous jurisdictions at any rate, some better answer than the conventional civil service commission must be found for handling the administrative work entrusted to the central personnel agency, and to the further fact that a better division of the quasi-legislative, quasi-judicial, and strictly administrative functions between the personnel board or commission and the technical staff must be made. In legislating out of office four civil service commissioners (the fifth, at the request of the governor, resigned), New Jersey attacked the problem negatively; California and Wisconsin, in practically limiting the work of the board or commission to quasi-legislative and quasi-judicial functions, and placing the administrative function in an executive staff headed by a single officer, show the positive approach. Each of these three pieces of significant legislation is worth explaining briefly.

In New Jersey, the civil service commission, consisting of five members with overlapping terms, each paid $3,500 (except the president, who received $4,000), took upon itself wide administrative powers with regard to the cities, counties, and other political sub-divisions which by referendum have adopted the merit system. These various municipalities have been grouped into "zones," each under the general or detailed supervision of one of the five commissioners; and through a sort of gentleman's agreement, the full commission approved in a perfunctory fashion, with rare exceptions, whatever the commissioner in charge of a particular zone did or proposed. So far did the individual commissioners go in matters of administration, with regard to many things, that the central office at Trenton had no complete record of official actions taken.

The legislative commission—known commonly as "the probe commission"—which investigated the situation, condemned the zone plan in unqualified terms and proposed changes in the organization and administrative system. When the governor asked the five members

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of the civil service commission to resign, one did so, but the other four refused. The legislature then passed an act vacating the offices, and a new commission was appointed, with the understanding that it would carry out the recommendations of the legislative investigation commission and, among other things, forthwith abolish the zone system. There is a general understanding, too, that the civil service law, which has been amended many times, is to be revised so as to make it understandable and to introduce and to give effect to a number of the modern conceptions and practices which have been developed in the last five years. It seems evident that New Jersey considers its experience with a civil service commission which exercises administrative functions highly unfortunate, that it is determined to place administrative matters in the hands of one chief executive officer with technical training; also that the civil service commission, if retained at all, will have its powers limited to quasi-legislative functions, such as the approval of rules having the force of law, and to quasi-judicial functions, such as making investigations.

In California the whole situation was different in that one member of the civil service commission gave full time to personnel work and acted as executive member, while the other two limited their activities to quasi-legislative and quasi-judicial functions. Dissatisfaction with the existing system was by no means as acute as in New Jersey, but there was a strong feeling that steps should be taken to coördinate much more closely the budget and personnel work and to use the information gathered by the personnel agency in carrying on the work of bettering the organization and procedure of departments and institutions. With the approval of the department of finance and the civil service commission, a law was enacted limiting the activities of the civil service commission practically to quasi-legislative and quasi-judicial functions, substituting for the executive member of the commission a personnel director (given reasonable assurance of permanent tenure), and making the personnel director the executive head of a division of personnel in the department of finance, with authority to carry on the administrative work as such. As the budget work is also done through a division in the department of finance, this organization, it was believed, would assure the proper coördination. In addition to handling personnel work, the division of personnel is to make studies intended to improve organization and procedure in departments and institutions.

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In Wisconsin the dissatisfaction with the old system arose from a variety of causes. The personnel system administered by the civil service commission did not provide at all for some personnel activities, such as control over annual and sick leaves, service ratings, hours of work, and attendance; did not include large parts of the state service; and in some respects was not of a character satisfactory to department and institution officers, the general public, or the civil service commission itself. In addition, the independent civil service commission, not really an integral part of the administration, but instead a sort of watch-dog to prevent political and other abuses, was not able to secure funds to carry on its work vigorously. The new law, effective last September, retains the civil service commission, but limits its activities to quasi-legislative and quasi-judicial functions; provides for a bureau of personnel in the executive department and a personnel director to be appointed by the governor and removed by him with the approval of the personnel board (the members of the old civil service commission and its chief examiner and secretary automatically, under the terms of the act, became respectively members of the new personnel board and the director of personnel); extends the jurisdiction of the bureau of personnel to practically all personnel functions for practically the whole state service (including legislative employees); and more than doubles the appropriations for the work of the central personnel agency.

The form of organization for the personnel agency adopted in California and Wisconsin is being watched closely by interested persons and a number of other jurisdictions. As has already been mentioned, similar legislation seems likely to be adopted in New Jersey. In Minneapolis, in Ohio, and in a number of other jurisdictions, there seem to be indications that the same type of legislation may be vigorously supported by powerful elements in the near future.

Duluth perhaps affords the most significant example of a different sort of attempt to make the work of the central personnel agency effective. As far back as 1913 that city established a central agency. But until a few months ago this agency did practically no work and as a rule utterly failed to function when personnel decisions were made. The situation was made acute, however, when two patrolmen were promoted to police sergeant without much regard to the procedure provided in the rules of the civil service board. A group who thought the promotions were based upon favoritism secured an in-

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junction from the courts preventing the promotions and as a by-product raised the question as to whether the detailed rules of the civil service board were to be followed in handling personnel matters in general. The best way seemed to be to make the civil service board function. Through the coöperation of the board itself, the city council, and the Taxpayers' League of St. Louis county, the city service was classified, a compensation plan was worked out, a full-time secretary was employed, records and procedure were established, and rules generally regarded as the most complete and progressive in the United States were adopted. The city council, after serious and thorough consideration of the classification plan and the proposed rules, gave both its approval; and at the present time it is considering the compensation plan proposed. It is expected that the expenditures for the work of the civil service board for 1930 will amount to about $4,500. Duluth thus becomes an outstanding example of a vigorous attempt in a relatively small city to make a central personnel agency function completely with the coöperation, understanding, and sympathy of the city council.

The creation of two legislative commissions in Massachusetts—one to work out classification and compensation plans for the fourteen counties of the state, and the other to inquire into the civil service law, rules, and regulations—seems likely to force serious consideration of the problems involved in providing a central personnel system for the state, for the counties, and for the cities and towns. In Massachusetts, more than in most states, the Commonwealth has reserved for or taken back to itself many of the functions commonly exercised through the county. As the salary of many county officials is fixed by statute through the state legislature, and as the legislature itself approves the budgets submitted by boards of county commissioners, the legislature created a special recess commission to investigate county salaries, to prepare classification and compensation plans for the various counties, and to submit its findings and recommendations to the legislature which meets in 1930. The commission to study the civil service law, rules, and regulations came into being because of dissatisfaction with some of the acts of the state civil service commission, which is the recruiting agency for the state service. All other personnel functions for the state service are exercised by the commission on administration and finance or by the department and institution heads. The commission is also the personnel agency for some eighty cities and

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towns. The state civil service commission has never had funds to carry on properly the activities given it by law; as to the cities and towns, it has not even ascertained and recorded the duties of positions, or made any attempt to classify positions in the various services. The work of the two legislative commissions is likely to result in an attempt to establish a unified personnel system for the state, the counties, and the cities and towns, and to show vividly and concretely the unsatisfactory conditions in the counties where no formal attempt is made to handle personnel matters in accordance with modern conceptions and standards.

Legislation in Minnesota makes acute the question of administration when small municipalities adopt for parts of their services a central personnel agency. The law authorizes the municipalities to adopt for the police and fire services the conventional civil service system, and such cities as St. Cloud, Thief River Falls, and Hibbing have established such systems for their police and fire services. At the present moment the authorities in these and other cities to whom is given the duty of administering the central systems are struggling with ways, means, and methods. The Civil Service Assembly of the United States and Canada has stated as its opinion that a central employment agency in the public service cannot be administered with technical competence for less than approximately $5,000 a year—a sum which is far beyond the resources of St. Cloud, Thief River Falls, Hibbing, and other Minnesota municipalities which have taken advantage of the new law. No means of making the central employment system for the fire and police services technically effective has yet been proposed.

The North Carolina law, applying to the city of Charlotte only, is raising a storm of opposition. The law establishes a civil service board which not only has the usual powers, but which appears to be authorized to exercise a good deal of the authority which should properly be vested in the chiefs of the police and fire departments; in addition, the city council, instead of the city manager, selects the two chiefs. The purpose of this law seems to be, in effect, to remove the police and fire departments from under the city manager. The law has been vigorously denounced by City Manager Rigsby, and seems to be of the type which is generally opposed by personnel administrators and those interested in extending and improving the so-called civil service system. It is expected that both the executive council of the Civil Service

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Assembly and the National Civil Service Reform League will, after careful consideration, prepare statements regarding this type of law which will brand it as an unwarranted distortion of merit principles and ideas.

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Public Utilities Legislation in 1929. The year 1929 was notable in public utilities legislation, not so much for new regulatory acts, but rather for legislation intended to clear the way for a serious, comprehensive, and more permanent revision of the whole body of laws relating to public control of utilities. Growing public criticism of the existing state of affairs in public utilities regulation reached the legislative halls in many states. On every hand was heard the criticism of the public service commissions for their failure to make utility rates reflect the decreasing cost of operation due to inventions, technological developments, and increased economies; and for their failure to constitute a public instrumentality capable of protecting the consuming public against the power and resources of the public utilities corporations.

The legislatures, also, were criticized for failure to extend the powers of the public service commissions to cover the activities of holding companies. According to W. A. Pendergast, chairman of the New York public service commission, the holding company is "one of the principal factors in financial control and management of the gas and electricity operating companies," and the charges for management imposed by the holding company "cannot help affecting rates, but the public service commission has never received authority to regulate such relationship." This fact was recently driven home impressively by the opinion of Attorney General Ward, of New York, in which he stated that the Niagara-Hudson Power Corporation is a holding company over which the public service commission has no jurisdiction.[1]

The impatience of the public has increased also with the delays in the development of utilities enterprises, caused by partisan disputes and petty wrangling. There is pretty general agreement with Governor Roosevelt that "it is intolerable that the utilization of this stupendous heritage [water power] should be longer delayed by petty squab-

[1] *New York Times*, July 9, 1929, p. 31.

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bles and partisan disputes."[2] The desire to cease temporizing and to find a more durable solution of the problem of public control of utilities led, in 1929, to the appointment of special investigating commissions by the legislature in at least three states, namely, New York,[3] Massachusetts,[4] and South Carolina.[5]

The New York legislature provided for the appointment of a temporary commission of nine members whose duties are to "survey, examine, and study public service commission laws of this and other states," in order to determine "whether the public service commission law of this state accomplishes the objects for which the system of state regulation was established;" and "what amendment or revision of the public service law is essential to guarantee to the public safe and adequate service at just and reasonable rates, to the stockholders of public service corporations a fair return upon their investment, and to bondholders and other creditors protection against impairment of the security of their loans; to recommend to the legislature remedial . . . . legislation . . . .; to formulate and prepare . . . . a draft of any proposed legislation which may be recommended by it."[6] The commission consists of the temporary president of the senate and two members appointed by him, the speaker of the assembly and two of his appointees, and three members appointed by the governor.[7] It was authorized to report not later than March 1, 1930, and was granted $40,000 for expenses.[8]

It seems that the legislature hoped by creating such a commission to break the deadlock between the Republican legislature which desires immediate lease of water power resources for private development and the Democratic governor, who, through his control of the personnel of the Water Power and Control Commission, continues to refuse approval to applications for private development.[9]

In his message to the legislature advocating the appointment of a non-partisan commission to inquire into the public service law, Gov-

[2] F. D. Roosevelt, Inaugural Address, *New York Times*, Jan. 2, 1929, p. 2.
[3] New York, *Laws*, 1929, Ch. 673.
[4] Massachusetts, *Acts and Resolves*, 1929, Ch. 55.
[5] South Carolina, *Acts*, 1929. Concurrent Resolution No. 601.
[6] New York, *Laws*, 1929, Ch. 673, Sec. 3.
[7] *Ibid.*, Sec. 1.
[8] *Ibid.*, Secs. 6-7.
[9] A. Blair Knapp, *The Water Power Problem in New York State* (Manuscript, p. 61).

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ernor Roosevelt urged that the inquiry be made "broad enough to shed light on the practicability of applying the *contract* principle more generally in fixing fares and rates."[10] In a message accompanying his approval of the bill, he expressed the hope that "the survey would be instrumental in recommending legislation to provide for a more effective and just regulation of public service corporations and allied companies." He offered the additional opinion that "the theory of twenty years ago that the return to public service corporations should not exceed a fair profit on money *actually invested* is constantly and flagrantly violated. Some method must be found to return to the original principle."[11]

The legislature of Massachusetts likewise provided for the appointment of a commission of investigation to survey the state system of utility regulation. It is authorized to investigate and report on the control of domestic public utilities corporations by means of stock ownership or otherwise. It is instructed to discover the amount paid in acquiring such ownership, the securities issued against such ownership, and the returns from the investment; also to discover whether corporations or individuals acquiring such domination have "also acquired any interest in any publishing or other enterprise in the commonwealth." The contractual relations between subsidiary companies and the controlling company are also to be investigated. The conduct of municipal lighting plants and their relations with private corporations is still a further subject for investigation. The commission is authorized to hold hearings and collect data, with the power

[10] *New York Times*, March 26, 1929, p. 19.

[11] *Ibid.*, April 17, 1929, p. 4. The personnel of the committee appointed to conduct the investigation is as follows: Senator John Knight, chairman (Rep.); Assemblyman Horace M. Stone, vice-chairman (Rep.); David Adie, secretary (Indep. Rep.), appointed by governor; Senator Warren T. Thayer, chairman senate public service committee (Rep.); Senator William J. Hickey, member senate public service committee (Rep.); Assemblyman Joseph A. McGinnis, speaker of the assembly (Rep.); Assemblyman Russel G. Dunmore (Rep.), leader of the assembly; Professor J. C. Bonbright, Columbia University (Independent), appointed by governor, and Frank P. Walsh (Dem.), appointed by governor. Col. William J. Donovan, of Buffalo, was appointed consulting attorney, and under his direction a fact-finding staff has been selected to assist in the investigation. This staff is headed by Dr. W. E. Mosher, of the School of Citizenship and Public Affairs of Syracuse University. The work performed to date (Nov. 30) gives promise of at least bringing together, in a non-partisan way, a vast quantity of important information of great interest not only to New York but to every state in the Union.

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to summon witnesses and take testimony under oath. Of the members, who are unpaid, one was appointed by the president of the senate, three by the speaker of the house of representatives, and three by the governor.[12]

The legislature of South Carolina authorized the appointing of an investigating committee "to study the question during the year and report at the next session of the general assembly whether or not it will be wise to have a thorough investigation made as to the rates of all power companies furnishing light and power in this state. . . . ." The reason for the appointment of the committee was that "there has arisen some question as to the fair, equitable, and reasonable return being allowed to public utilities companies in this state for electrical service." The committee consists of a member appointed by the president of the senate, one by the speaker of the house, one by the chairman of the railroad commission, and one by the governor.[13]

The general demand for strengthening the position of the public service commissions through the extension or clearer definition of their powers and jurisdiction, and through provisions for a more adequate staff, found little response in most states during 1929. A few outstanding exceptions, however, should be noted. The title of the public utilities commission of Kansas (created in 1911) was changed to that of "public service commission." Authority to appoint the enumerated subordinates was granted to the commission, with the further worthwhile provision that the commission may employ additional accountants, engineers, etc., "as is necessary to carry on its work. The orders of the commission were safeguarded by the provision that appeals for review by a court "shall not in itself stay or suspend the operation of any order or decision," and that the court in its discretion may stay

[12] Massachusetts, *Acts and Resolves*, 1929, Ch. 55. The commission's hearings have brought out clearly the opposition in Massachusetts to the "reproduction-cost-new" theory and to the increasing influence of holding companies. According to Commissioner Goldberg, "public opinion in Massachusetts would demand public ownership of utilities if the decision of the Supreme Court set aside legality of the present system of rate determination based on *actual stockholders' investments* rather than on reproductive costs." With regard to holding companies, the same commissioner stated that "holding companies are likely to be essentially interested in boosting the market price of their shares and consequently in securing large immediate returns rather than in following a conservative, long pull policy." *Boston News Bureau*, Nov. 26, 1929, p. 5.

[13] South Carolina, *Acts*, 1929. Concurrent Resolution, No. 601.

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or suspend the order only in case evidence shows "that great and irreparable damage would otherwise result."[14]

The commission in New Hampshire was given the authority to call into its service the attorney-general "in any action or proceedings before it . . . . to protect the interests of the people of the state or any subdivision thereof."[15]

Jurisdiction over motor carriers was granted to the commission for the first time or increased in the following states: Florida,[16] Idaho,[17] Iowa,[18] Missouri,[19] New Jersey,[20] Nevada,[21] New Mexico,[22] Ohio,[23] Oregon,[24] South Carolina,[25] Tennessee,[26] Texas,[27] Utah,[28] and Wyoming.[29] In a majority of instances the state commissions were given the authority to supervise and regulate motor carriers with regard to rates, quality of service, safety devices, accounting, reporting, and capital issues. "Certificates of convenience and necessity" were required in most states before motor carriers could operate.

Ambitious attempts to further public ownership and operation were made in a few instances. The most noteworthy example was the legislation of Nebraska,[30] authorizing the creation and incorporation of hydro-electric power districts. Hydro-electric districts may be formed by a petition to the district court of twenty-five per cent of the electors of one or more incorporated cities or villages, or of the inhabitants of a rural district. The court, after a hearing, decides as to the "public convenience and welfare of the project. The administration of a district is entrusted to a board of five directors, who are elected by popular

[14] Kansas, *Laws*, 1929, Ch. 259.
[15] New Hampshire, *Laws*, 1929, Ch. 144.
[16] Florida, *Acts*, 1929, Vol. I, p. 349.
[17] Idaho, *Laws*, 1929, Ch. 267.
[18] Iowa, *Acts*, 1929, Ch. 133.
[19] Missouri, *Laws*, 1929, p. 340.
[20] New Jersey, *Acts*, 1929, Ch. 638.
[21] Nevada, *Statutes*, 1929, Ch. 51.
[22] New Mexico, *Laws*, 1929, Ch. 129.
[23] Ohio, *Laws*, 1929, Sec. 614.
[24] Oregon, *Laws*, 1929, Ch. 394.
[25] South Carolina, *Acts*, 1929, No. 220.
[26] Tennessee, *Acts*, 1929, Ch. 76.
[27] Texas, *Laws*, 1929, Ch. 314.
[28] Utah, *Laws*, 1929, Ch. 94.
[29] Wyoming, *Laws*, 1929, Ch. 124.
[30] Nebraska, *Laws*, 1929, Ch. 104, replacing Ch. 108 of the *Laws* of 1927.

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vote in the district. The district is a body corporate, with the "sole management and control of hydro-electric and auxiliary steam electric power . . . . plants and transmission lines within or without said hydro-electric district now or hereafter owned or leased by said district." Power of eminent domain for the purposes of the district is conferred upon the corporation. The board of directors is authorized to determine rates and charges, engage managers and other employees, and fix their compensation. Bonds may be issued by the board upon the approval of sixty per cent of the qualified voters and subject further to the certificate of the auditor of public accounts as to their regularity and lawfulness. The function of such hydro-electric districts is to "construct, purchase, operate, and maintain the power plants and main transmission lines, leaving the distribution system of each urban and rural unit within its territorial limits to be established by said unit so far as is practicable."[31] The plan seems to be the nearest approach in the United States to that of generation and transmission of electric energy in Great Britain under the Central Electricity Board.[32]

The legislature of Kansas further protected municipally owned electric lighting plants against private competition in cities of over 110,000 population by making illegal an ordinance permitting a private plant to sell electricity to consumers unless the latter have been refused a supply from the municipal plant.[33]

A public utility commission was created by an act of the Indiana legislature for cities of over 300,000 (Indianapolis), with the power of exclusive management, regulation, etc., of gas works, electric light works, and heating and power plants which the city now owns or may acquire in the future.[34]

The Wisconsin legislature adopted one of four proposals of the League of Wisconsin Municipalities, in a joint resolution to amend the state constitution so as to permit bonds of municipalities, when secured by public utilities, to be issued outside of the five per cent debt limit. The resolution must again be passed by the legislature

[31] Nebraska, *Laws*, 1929, Ch. 104, Sec. 21.

[32] The librarian of the Nebraska Legislative Reference Library informs the writer that as yet no districts have been created under either the law of 1927 or that of 1929.

[33] Kansas, *Laws*, 1929, Ch. 127.

[34] Indiana, *Laws*, 1929, p. 252.

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(in 1931), and finally adopted by the people, before it becomes a law. The other three proposals in the interest of public ownership were defeated by the senate. They were: to permit the formation of electric light and power districts; to permit municipal competition with privately owned public utilities; and to amend the constitution to permit the recapture of water powers and the generation and distribution of electric energy by the state.[35]

The problem of transmission of electric energy beyond state boundaries occupied the attention of the legislature in at least two states, New Hampshire and Maine. The New Hampshire legislature passed an act providing that any corporation engaged in the business of transmitting electric energy beyond the confines of the state shall discontinue such transmission whenever the public service commission shall find that such energy is required for use within the state.[36]

The legislature of Maine submitted to referendum vote an act to permit the exportation of surplus power. Surplus power was defined as "hydro-electric power which . . . . is in excess of the amount of power required to supply all reasonable demands" in Maine. Export of energy was limited to corporations especially organized for such purpose. No person, firm, or corporation generating electricity might sell energy to the exporting corporation without a permit from the public utilities commission, and not until a contract with the state of Maine to abide by the terms of the permit shall have been signed. Furthermore, a four per cent excise tax was to be levied upon the "gross operating revenue receipts" received from the sale of surplus power.[37]

This partial repeal of the so-called Fernald law, which for twenty years has prevented the export of electric energy from Maine, was passed by both houses of the legislature by an overwhelming majority. The act, however, was defeated by the electors in September by a vote of 64,044 to 54,070. Thus a campaign for exportation of energy extending over almost a decade ended in failure.

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The Proposed Interstate Legislative Reference Bureau. Three states out of every four purport to maintain something in the nature

[35] John Bauer, "Public Utilities," in 18 *National Municipal Review* 716 (Nov., 1929).

[36] New Hampshire, *Laws*, 1929, Ch. 106.

[37] Maine, *Acts and Resolves*, 1929, Ch. 280.

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of a legislative reference bureau. Some of these thirty-six bureaus are embryonic and others are vestigial, some were still-born and others have died. Many, however,—perhaps fifteen or twenty—are active and important, and the number of these is undoubtedly increasing. The American Legislators' Association proposes to maintain, as a part of its organization, a bureau which will be referred to as the Interstate Legislative Reference Bureau. Incidentally, this distinction in name has been suggested in order that state appropriation bills may make it clear that state funds are to be devoted solely to this department of the Association's work.

This proposed bureau will undertake to keep track of the research work of each legislative reference bureau. It will maintain a topical card index, showing each study of importance on which any bureau has completed a report, as well as each study which is in progress. Whenever the Interstate Bureau learns that any state bureau is undertaking a study of a particular legislative problem, it will, upon its own initiative, prepare and send to that bureau a brief memorandum showing what reports on the same subject have already been prepared by other legislative reference bureaus, and also giving a list of the other bureaus which are studying the same question. Such data will at all times be available upon request by the director of any legislative reference bureau.

The fulfillment of this project of the Legislators' Association will mean that whenever a legislative reference bureau is called upon to study a particular problem, it can begin work where the other bureaus left off, and that it can frequently have the benefit of expensive and laborious research, whereas, in the absence of a clearing house, the state bureau may devote weeks or months to duplicating the research which has been well performed elsewhere.

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NOTES ON JUDICIAL ORGANIZATION AND PROCEDURE

EDITED BY WALTER F. DODD
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Methods of Jury Selection. Only five years ago, a member of the bench was protesting that whereas "criticism of our courts has become so common that anyone with a pen or typewriter feels called upon to add his mite to the subject," still, "for some reason, perhaps for fear of being unpopular, very few have said anything regarding juries."[1] What a change has taken place! Today, baiting the jury is one of our safest, as well as most popular, pastimes. As stated by Dean Wigmore, "the issue stands thus: Shall jury trial be abolished? Or shall it only be reformed? No thoughtful person can be content to leave it as it is."[2] Abolition being beyond the realm of probability, the question narrows down to that of the improvement of the jury, which is primarily a problem of improving the methods of its selection.

I. THE EARLY JURY

Knowledge of the facts. Although to Blackstone the trial jury seemed "to have been coëval with the first civil government" of England, more scholarly research has shown it to be of Norman origin. Such research has likewise pointed out marked changes in the character of the jury itself. Whereas we think of it as a group of individuals having neither knowledge of the facts nor bias as to the parties, who are to hear the evidence and decide according to its weight, the early jurors were chosen because of their knowledge of the facts. They did not hear witnesses; they *were* the witnesses. Glanville tells us that the first function of the court was to ascertain, by their oath, whether any of the jurors summoned were ignorant of the fact in issue. "If there be any such, they are rejected and others chosen."[3] How re-

[1] Judge K. E. Leighton, "How About The Jury?," 8 *Jour. Amer. Jud. Soc.* 246 (1924).

[2] "A Program for the Trial of Jury Trial," 12 *Jour. Amer. Jud. Soc.* 166 (1929).

[3] *A Treatise on the Laws and Customs of England*, Bk. II, c. 17. See also The King v. Edmonds (1821), 4 B. and Ald. 471, 490, 106 Reprint 1009, holding

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markably different is the situation today, when we have need of appellate decisions to settle the right of jurors to avail themselves of their "common knowledge and experience" in passing upon the question of whether a fact is logically deducible from the circumstances in evidence![4] And how strangely out of keeping is the Illinois decision, reversing the conviction of a forty-four-year-old confessed criminal of statutory rape because the only evidence showing that he was over sixteen years of age, aside from his confession, was the fact that the jury had seen him, and "the law does not allow the jury to fix his age by inspecting his person."[5] One similarity, however, remains: except under extraordinary circumstances, the jury must be chosen from the county in which the crime was committed or the action brought.

Knowledge of the Field. Having abandoned the requirement that jurors should be personally acquainted with the facts of the case, the common law still clung to the desire to secure jurors whose special training and experience would fit them to decide the particular type of questions involved. The books abound in examples of such *special juries,* e. g., those of "cooks and fishmongers" to hear accusations of the sale of bad food, of "attorneys of Common Bench and Exchequer" to pass upon technical questions of law, of "matrons" to decide if a widow was with child. A similar desire for specialists is to be noted today in the civil law countries that have adopted the criminal jury. A few years ago, a murder case in which the defense was to be emotional insanity was before the French Court of Assizes. On the evening before the trial was to open the press announced that everyone would be pleased to hear that one member of the jury was to be a professor of diseases of the mind at the Collège de France, and one of the leading experts of the world in this field. If such a juror were called in an American court, he would be eliminated by challenge, since "the American jury lawyer, where insanity is an issue, does not want anyone on the jury who knows more of the subject than he does."[6] The same is true in fields other than medicine, with the result that the special jury has long been moribund.

that "a knowledge of certain facts, and an opinion that those facts constitute a crime, are certainly no grounds of challenge."

[4] Burns v. U. S. (C.C.A. Okla. 1922), 279 F. 982, 987. Certiorari denied, 257 U. S. 638. See also Philadelphia, etc. R. Co. v. Berg (C.C.A. Pa. 1921), 274 F. 534. Certiorari denied (1921), 257 U.S. 638.

[5] Winstrand v. The People (1904), 213 Ill. 72.

[6] 47 *Amer. Law Rev.* 149 (1913).

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Selection. The early common law method of jury selection was simplicity itself. Jury lists, wheels, and commissions were unknown. Whenever a jury case was docketed, the court issued a writ of *venire facias* commanding the sheriff to summon the necessary jurors for a given time. This was universally what is now spoken of as an *open venire,* in that there was no prior selection of those to be summoned, the sheriff choosing whom he pleased and entering their names upon a *panel* (oblong piece of parchment) annexed to the writ. If the required number of jurors did not appear, or if any were excused, additional jurors were summoned in like manner. It was not until Parliament abolished a separate jury for each case and substituted a panel of from 48 to 72 jurors to try all causes during a given session that absolute control was taken from the summoning officer through a chance drawing of each jury from the larger panel.

The *special jury* soon crystallized into its modern form of a *struck jury.* As described by Blackstone,[7] the clerk, in the presence of the parties, selected the names of 48 freeholders. Each party then *struck* [crossed out] the names of twelve, and the remaining twenty-four were returned upon the panel. By this time the motive for requesting such a jury was more often a desire to escape the absolute control of a biased sheriff than to secure a group of experts.

Whatever may be said for the effectiveness of the common law method of jury selection during the earlier period of its use, there can be no doubt that it outlived the period of its sufficiency. Blackstone praised it, to be sure, as "avoiding . . . . frauds and secret management" through electing the twelve jurors by lot out of a panel chosen by an "indifferent officer." But what of the panel? And there was room for doubt as to the "avoidance of frauds and secret management" in the selection of the twelve,[8] as well as to the "indifference" of the sheriff. The professional juror was an accepted fact.[9] Packed juries were easily possible, which naturally caused a good deal of suspicion; and experience was even then showing that the personal followers of the sheriff are not always of the highest type. When Blackstone himself

[7] *Commentaries,* Bk. III, p. 358.

[8] The modern jury box was suggested by Bentham. See *Art of Packing Juries,* p. 238. Cf. Benaway v. Coyne (Wis. 1851), 3 Pinn. 196, where the common law was held to authorize the clerk to use slips of two colors, and to hold them in one hand as he drew them out with the other.

[9] Special jurors, who received a guinea per case, were spoken of as "being concerned in the Guinea trade." Bentham, *op. cit.,* p. 33.

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was forced to admit that "the general incapacity, even of our best juries, ... has greatly debased their authority,"[10] the seriousness of the situation was evident. "The administration of justice should not only be chaste, but (like Caesar's wife) should not even be suspected." The common law method of jury selection failed to meet this first requisite.

From the defects of the common law system, a few general requirements for a more satisfactory method can be drawn. First, it is not enough that the twelve be drawn by lot; the panel from which they are chosen is the key to the situation. If the quality of the jury is to be at all satisfactory, no one who fails to meet such tests as may be established should be allowed on the list from which the panel is drawn. This necessitates some sort of fact-finding machinery which will function in advance of the drawing of the panel. Finally, it may be laid down as a cardinal principle of justice in criminal cases that nothing should be left to the discretion of persons over whom the prosecution is likely to wield influence, which will generally include the sheriff.

II. THE JURY OF TODAY

Qualifications. Aside from a number of tests that will disqualify a given juror to sit in a particular case, such as relationship, bias, or knowledge of the material facts involved, qualifications for jury service are relatively simple. The lower age limit is generally twenty-one or twenty-five, the upper from sixty to seventy. Eligibility to vote is almost universally required,[11] and a property test may or may not be added. Unless there is a sex qualification,[12] the only other tests are generally those of "ordinary intelligence," "full possession of one's natural faculties," and ability to read, write, and understand the

[10] *Commentaries,* Introduction, p. 8.

[11] New York provides that no one who has registered to vote shall be required to serve until all of the eligible non-voters have served. *Judiciary Law,* ss. 597-615. Opinion may differ as to whether this shows a regard for the citizen who goes to the polls on election day, or the extent to which jury service has fallen in the public eye. Other jurisdictions, through the use of registered voters' lists as the source of names for jury service, reverse the New York practice.

[12] Compare Louisiana, *Laws,* 1924, no. 19, s. 1 (no woman shall be drawn unless she files a declaration of desire); Wisconsin, *Laws,* 1921, c. 529 (no woman may be required to serve if she asks exemption when first called); *Laws of England, Supplement* (1929), s. 560 (the court "may . . . . grant exemption by reason of the nature of the evidence to be given or of the issues to be tried," or he may

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English language. Members of the leading professions, including law, dentistry, medicine, and teaching, are exempt from jury duty, together with public officials, firemen, national guardsmen, etc., the list varying from state to state and including many of those best qualified to serve. Although the qualifications are not high, their strict enforcement would greatly improve the character of juries in most jurisdictions.

Jury List. The first step in the selection of the jury is the preparation of a list of persons eligible for service. The names are secured in a number of different ways. Ordinary sources of information are the assessors' and poll lists, city directories, and, in a few jurisdictions, telephone directories and census reports. Most jurisdictions use only the first two, and many only one of the two. By eliminating persons who, from the information given, are known to be ineligible, a preliminary jury list is obtained.[13] Of course the results are very inaccurate. The poll list does not give the occupation; the assessor's list omits age; the city directory, if one is available, and if it is not hopelessly out of date, does not tell whether the person is a qualified elector; none gives definite information as to literacy or mental and physical condition. Yet, strange as it may seem, most jurisdictions stop here, the number of candidates required—anywhere from a hundred to several thousand—being chosen more or less at random from the list so compiled and their names deposited in the jury wheel.[14] Little wonder that when a panel is drawn many are found ineligible and the residue unsatisfactory!

Obviously, under such a system it matters little by whom the list is compiled. In Kansas, in first and second class cities it is prepared by the mayor, although "in many places it is said that they give the matter no personal attention."[15] In two of the judicial districts of

order that the jury be composed of men or women only). Even where the law places men and women on the same footing, it is not always true that the selecting officers do the same, with the result that relatively few women actually serve. See Elizabeth M. Sheridan, "Women and Jury Service," 11 *A.B.A. Jour.* 792-797 (1925).

[13] The law often provides that this list shall include the names of all who possess the necessary legal qualifications. Needless to say, this requirement is construed by the courts to be directory only, so that the incompleteness of the list does not invalidate it.

[14] See below, note 26.

[15] Judicial Council of Kansas, *First Report* (1927), p. 18.

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that state it is made by the district judges themselves; but since they have "little more to indicate the qualifications of the persons for jury service than their names and places of residence,"[16] little advantage in having the judge enter into the process can be seen. In fact, the Judicial Council feels that the third practice, under which the list is selected by the township trustees or deputy assessors, "who come in personal contact with the taxpayers of their districts in making assessments," is superior to either.[17] From my own experience as to the value of this "personal contact," especially in urban districts, I can appreciate the Council's plea that since "none of these methods insures the proper selection of persons for jury service,"[18] the law should be completely revised.

Milwaukee Jury Commission.[19] In more progressive jurisdictions, where a jury commission or jury judge with investigative powers is employed, the list of eligible persons would only be a preliminary step in the preparation of a final list. The Milwaukee and Baltimore systems may be taken as typical examples of such methods at their best.

The Milwaukee commission consists of three electors chosen by the judges of the Circuit Court. Although appointments are for three years, the present commissioners have served for ten years, seven years, and one year, respectively, the newest member succeeding her husband, who had served for thirteen years. Starting with the poll lists, each name is checked against the city directory and the files of the commission to eliminate those who are exempt by occupation or prior service. Candidates are then selected at random from the various wards and notified by post-card to appear before the commission. If the card is ignored, a subpoena is issued. When those summoned appear, about sixty each evening, they fill out a short questionnaire giving information as to age, occupation, education, period of residence, interest in pending litigation, prior service, etc. This is done under the eye of the bailiff. Claims for exemption by way of occupation or sex[20] must be entered at this time; otherwise they are waived. Each candi-

[16] Judicial Council of Kansas, *First Report* (1927), pp. 18-19.

[17] *Ibid.*, p. 18.

[18] *Second Report* (1928), p. 8.

[19] The writer is indebted to Justice Oscar M. Fritz of the Supreme Court of Wisconsin, formerly presiding judge of the Circuit Court of Milwaukee, for this and other information.

[20] See above, note 12. About 90 per cent of the women candidates claim exemption.

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date then appears individually before the commissioners, who ask further questions to test intelligence, mental alertness, hearing, eyesight, ability to understand English, etc. He is then excused, without being told whether or not he has been accepted. This will never be known by any but the commissioners until such time as he is actually summoned upon a venire. If not summoned, it may never be known.

Baltimore Jury Judge.[21] The Supreme Bench of Baltimore has eleven departments, of which seven are ordinarily engaged in the trial of jury cases. Each year one member of the court is designated as jury judge, with the duties ordinarily devolving upon a jury commission, in addition to those of summoning and impaneling jurors. Once each year this judge devotes from three to four weeks in preparing the jury list. Candidates are summoned from the various districts, their names being picked at random from the tax lists of the county, to appear for examination on their choice of two or three named days. Upon appearance, they go through much the same process as in Milwaukee, including the filling out of a questionnaire, followed by an oral examination by the judge. When a sufficient number of candidates have been accepted, they are divided into groups according to the time of year in which they prefer to serve. Every three weeks 400 names are drawn by chance, and these candidates again appear before the judge, who selects 175, or twenty-five per court, as the panel for the period.

There seems little to choose between the Milwaukee and Baltimore systems from the point of view of efficiency. However, it is evident that were it not that the panel chosen by the Baltimore judge is to be divided by chance among seven judges, the wisdom of such complete control over the selection of the final panel might well be doubted. Others will be of the opinion that if the first examination is all that it should be, the second is merely a fifth wheel to the cart. There is also no reason why a jury commission should not be as efficient and impartial as a judge, leaving the latter free to spend more of his time in the trial of cases. But the facts being that many jury commissions are neither efficient nor impartial, many jurisdictions will find it to their advantage to copy the Baltimore rather than the Milwaukee system.

The Myth of the Jury Commission. No better illustration of the

[21] The writer is indebted to Judge Walter I. Dawkins of the Baltimore Supreme Bench for much valuable material on the Baltimore system.

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difference between "law in books and law in action" could be asked than the complete failure of many such commissions, no change from the older system being discernible save in the personnel of the group that copies names from the tax or poll list. In some cases the statute is at fault in not authorizing compulsory attendance for examination, but often the blame rests solely with the commission. The Illinois Crime Survey found that although the statute authorizes examination under oath, "the authority which it confers has never been exercised" in Cook county.[22] The commission does mail out a short questionnaire to determine eligibility, but even this is turned against the purpose of the statute, offering a handy avenue of escape to the busy but desirable candidate. "Occasional investigation into the truth of the answers would probably accomplish some improvement," but even this is not done.[23] Many will agree with the conclusion that "if the commission would personally examine all veniremen before being turned over to the court it would substantially improve the quality of juries."[24] That is its sole excuse for existence.

Territorial Distribution of Jurors. It is not enough that the selection of jurors be without partiality or favoritism; it should be above suspicion of either. One of the best ways of attaining this end is to represent all classes of society. Under the Milwaukee system, this is done by apportioning the names deposited in the jury wheel among the various wards according to their voting strength. Of course this necessitates a little extra bookkeeping on the part of the commission and the examination of a larger number of candidates, a majority of those from the lower class wards often being unacceptable. In the end, however, without lowering the standard of eligibility, the necessary number is easily obtained.

It is much simpler to follow such a practice as that of the federal district court for Philadelphia, which selects its jury lists, without reference to place of residence, from names submitted by such "representative citizens" as congressmen, bank presidents, manufacturers, clergymen, and factory superintendents.[25] Although this method is remarkably fitted to secure intelligent jurors, it is likely to create a

[22] *Illinois Crime Survey* (1929), p. 230.

[23] *Ibid.*, p. 230.

[24] *Ibid.*, pp. 230, 240.

[25] See Callender, *The Selection of Jurors* (1924), p. 44ff. Cf. the New York practice, *ibid.*, p. 53.

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feeling of uneasiness and distrust among certain of the more restless elements of society. Many states, indeed, specifically prohibit the solicitation or submission of such recommendations. This appears to be wise, particularly in view of the fact that a satisfactory jury commission or jury judge will render them unnecessary.

Drawing the Panel. The jury list having been prepared, a definite number of names, varying from a hundred or so in some single-judge courts to several thousand in many cities, are deposited in the jury wheel.[26] Whenever a court needs a new panel of jurors an order is issued to the clerk to draw a given number of names from the wheel, and the persons so selected are summoned to appear for service. As names are drawn, others are added, so that a certain minimum is always maintained. In some jurisdictions each court has its own jury wheel, but the general practice is for all courts in a given city or town to draw from the same wheel.

Summoning Jurors. In the great majority of jurisdictions jurors are still summoned by a writ of *venire facias* directed to the sheriff. There would seem to be no reason for this, save that it has always been so.[27] The system is inefficient as well as costly, the proportion of names returned *non est inventus* [not found] often being large. The Illinois Crime Survey found that "deputy sheriffs frequently serve jury summons by leaving them in a mail box or under the door of the juror's supposed residence," and concluded that service by registered mail would have all of the advantages and few of the disadvantages of service by the sheriff.[28] This has been the experience of the courts now following the practice. Among other advantages, Chief Justice Powell, of the Cleveland Court of Common Pleas, states that "if a juror has changed his residence . . . . the post office forwards the letter to him and we reach many in this way who could not be reached by service of the sheriff."[29] In addition, such evils as the excusing

[26] A jury wheel is merely a box so constructed that by turning it the slips are thoroughly mixed but the names thereon wholly concealed. Many jurisdictions use a "jury box" rather than a wheel. The distinction is unimportant, the sole function of either being to secure a fortuitous drawing.

[27] And, of course, it is an additional source of revenue to the sheriff, who is generally paid by fees.

[28] *Op. cit.*, p. 237.

[29] This court uses the ordinary post, registered mail being resorted to only when the juror ignores the first summons. The writer is indebted to Chief Justice Homer G. Powell for this and other information regarding the Cleveland courts.

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of jurors by deputy sheriffs and charges of partiality in the returning of the panel are avoided.

Service by mail is a relatively new development and has been very favorably received. We may look for a rather rapid adoption of the practice as it is brought to the attention of other courts by our judicial councils, although in most states legislation will be necessary to allow its use. North Carolina has authorized summons by telephone as well as by mail;[30] but the writer is not informed as to what advantage has been taken of the statute. The telephone would seem to be a logical supplement to the post in many jurisdictions.

Excusing Jurors. If the method of preparing the jury list is a proper one, little remains to be done save to impanel those who have been summoned; otherwise the entire group must be examined to eliminate those who are not qualified. The court must also pass upon the claims of eligible candidates who insist upon exemption, in the course of which it becomes evident that next to paying taxes there is no responsibility of the citizen that seems so galling to him as the very thought of serving on a jury.[31] Too many courts have adopted an automatic system of excuses by failing to do anything about the complete ignoring of a summons,[32] which requires the summoning of an unnecessarily large number of jurors and reacts unfavorably upon the morale of those who are required to serve. If the panel is so reduced by excuses or other cause that additional jurors are required, they are generally chosen in the same manner, although the court may have power to issue an open venire to the sheriff, who chooses whom he will.

The shorter the period of service, the longer the period of exemption; and the more certain the ultimate necessity of serving, the fewer are the requests to be excused. Many courts are reducing the period of service to two weeks, not merely to lighten the burden but also because they feel that a more satisfactory juror is secured thereby.[33] At

[30] *Public Laws,* 1925, c. 98, p. 111; *Comp. Stat.,* s. 918.

[31] Contrary to the common belief, there is nothing either new or startling in this attitude. See Pollock and Maitland, *The History of English Law,* II, p. 629.

[32] Over 8 per cent of those summoned in 1927 in Cook county did not appear. *Illinois Crime Survey* (1929), p. 232. Such a condition is not peculiar to Chicago or the United States. See *Report of the Departmental Committee on the Law and Practice of Juries* (1913), I, pp. 27-8, published in *British Parliamentary Papers, House of Commons,* XXX.

[33] Many judges feel that when a juror serves for a longer period he is likely

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the same time, the period of exemption following service is being increased from the customary one year to three, four, or even six years.[34] In Milwaukee, certainty of service is secured by substituting two jury wheels containing one thousand names each for the customary single wheel which may never be emptied. All juries are drawn from the first wheel until it has been exhausted, when the second is called into play and the first refilled. When the period for which the juror has been excused has expired, his name is returned to the wheel, from which it is certain to be drawn, although perhaps for a different court, at a future date. This divided wheel method has certain additional obvious advantages that should commend it to other jurisdictions.

Challenges: Voir Dire Examination. As each case is called, the names of all jurors who are present and not already engaged are placed in a box, and the first twelve drawn are presented to the parties for examination and challenge.[35] Challenges are spoken of as *to the array* (entire panel) or *to the polls* (individual juror). The former are based upon some serious irregularity in the selection of the panel, and their sole result is to delay the case until a new panel is summoned. Challenges *to the polls* may be either *peremptory* (without cause stated) or *for cause,* such as bias, relationship, or dealings with the parties, knowledge of the material facts of the case, or a lack of some legal qualification for jury service.

Perhaps no other single cause has had greater effect in bringing jury trial into disrepute than the abuse by counsel of the *voir dire* examination, which is the questioning of prospective jurors for the purpose of establishing grounds for challenge. Although the magnitude of this abuse has been over-emphasized, extreme cases are entirely too frequent;[36] and it is such cases that catch the public eye. Too frequently the questioning has no legitimate motive, but is purely for purpose of delay, or even to prevent the selection of really competent jurors.

The last few years have witnessed a decided change in attitude

to become acquainted with attorneys and parties in such a manner as to form likes and dislikes which may impair his efficiency as an impartial juror.

[34] This is generally done by court rule rather than by statute. Milwaukee has adopted both the two-week period of service and the six-year exemption without handicapping the work of the jury commission in the least.

[35] This is the standard method. Others are discussed below.

[36] See *Illinois Crime Survey* (1929), p. 235; Kavanagh, *The Criminal and His Allies* (1928), p. 211; State v. Welch (1926), 121 Kan. 369, 374-5.

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toward the proper degree of control by the judge. One of the first recommendations of the federal Board of Senior Circuit Judges was that the "examination . . . . shall be by the judge alone. If counsel on either side desires that additional matter be inquired into, he shall state the matter to the judge, and the judge, if the matter is proper, shall conduct the investigation.[37] Such had long been the practice in many jurisdictions, and with the prestige added by the support of Chief Justice Taft and the senior circuit judges it has been adopted rather widely by federal courts. Granted proper confidence in the judge, there is no reason why the rule should not meet every possible requirement; and its efficiency cannot be doubted. But if any one is laboring under the illusion that this practice is about to become universal in our American courts, let him look into the results that followed its suggestion by the judicial council of Kansas for the courts of that state.[38] Before such a change can come about, there must be a wholesale repeal of statutes, and also the development of an entirely new attitude toward the proper function of the judge in the conduct of a jury case.

Many courts have adopted the practice of having the judge examine all prospective jurors, but allowing the counsel thereupon to ask such questions as may appear proper. This can be done without any change in the law, and its result is generally the same as under the rule suggested by the Board of Senior Circuit Judges. Chief Justice Powell states that in the Cleveland Court of Common Pleas, where this practice has been followed for some years, the usual time in qualifying a jury is from five to ten minutes. Under such circumstances, no attorney feels justified in conducting a fishing expedition, if for no other reason than because the reaction of the jurors toward this type of conduct would place him at a disadvantage. If the attorneys for *both* parties are required to question a given juror or waive examination before passing to another, an additional saving results in the elimination of the unnecessary repetition of questions.

[37] Recommendations of the Board of Senior Circuit Judges, 1923 and 1924, published in 8 *Jour. Amer. Jud. Soc.* 92, and in 10 *Amer. Bar. Assoc. Jour.* 875.

[38] *First Report* (1927), pp. 15-16; *Second Report* (1928), p. 7. Even the trial court judges of the state objected to the adoption of such a rule, and the council thereupon concluded that "perhaps if in each judicial district a procedure could be worked out that was adaptable to the peculiar conditions there existing, ... it would be better for that to be done than for any of the suggested rules to be promulgated."

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In the more important cases, particularly criminal prosecutions, each party is usually allowed a limited number of peremptory challenges. The common law practice was to present the jurors one at a time, requiring each to be accepted and sworn or challenged before the next was called. This was a very serious limitation upon the right of peremptory challenge, for one could never tell but that the next to be called would be even less acceptable, particularly when the panel was exhausted and the court was forced to resort to talesmen.[39] Although many courts still follow this practice, it is a general rule today to secure twelve jurors unchallenged for cause before either party is called upon to exercise a peremptory challenge.[40] The court may ordinarily require the parties to exercise their challenges in any order it may see fit, although there is a growing tendency to require them to alternate, the plaintiff or prosecution challenging first. A more expeditious manner of handling peremptory challenges is provided by the modern *struck jury,* described below.

Talesmen.[41] If the panel appears likely to be exhausted without obtaining a full jury, the court directs the summoning of talesmen, or emergency jurors who serve only for the particular case. At common law they were chosen by the sheriff, either from those present in court or from the county. Either practice renders it comparatively easy for interested and unscrupulous persons to get on juries, and although most jurisdictions still follow the common law practice, many now require talesmen to be named by the judge or chosen in the same manner as regular veniremen. Since many courts serve an extensive territory, the use of the regular jury wheel necessarily causes a good deal of delay, and a few courts now substitute a special *tales wheel* containing the names of persons living within a short radius of the court house.[42] Even under the best systems yet devised, the most that can be said is that the use of the talesmen is an evil to be avoided. Milwaukee had a striking illustration of this in an important murder case, a talesman

[39] See below, note 41.

[40] In Illinois, jurors must be passed upon and accepted in panels of four. *Revised Statutes* (1927), c. 78, s. 21.

[41] The term "talesman" is often used incorrectly to designate any person called for jury service. Throughout this article it is used in the more restricted sense of a person summoned to fill a deficiency in a particular jury.

[42] South Carolina, *Code,* 1922, I, p. 215; Iowa, *Code,* 1924, s. 10859 ff. Cf. State v. Dorsey (1915), 138 La. 410. Iowa allows the same names to be used over and over, which is a poor practice.

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who was accepted as a "perfect juror" turning out to have been coached for the *voir dire* examination.[43] Perhaps the summoning of talesmen by the clerk or the jury judge by telephone, instead of drawing four or five names for each one required and allowing the sheriff or his deputy to select "those most easily located," would remedy some existing evils.

Swearing the Jury. When the final juror has been secured, the clerk swears all twelve at once, unless the court has followed the common law practice of swearing each juror as he is accepted. The jury is then ready to try the case.

Struck Jury. Although in many states special juries are still provided for by law, they are virtually never used.[44] To the antipathy of the bench for the expert juror and the prohibitive expense involved in summoning separate jurors for each case must be added the practical difficulties illustrated by Bruce v. Beall, where the specialists in "iron and wire cables" summoned by the court "were each . . . . found to have a good, valid reason to be excused from serving."[45] In our search for expert fact-finders we are turning to commercial arbitration and administrative justice, which would seem to be the logical solution.

The struck jury has been remodeled into a refined method of handling peremptory challenges, and in this form it is receiving wide acceptance. In the practice of the Baltimore Supreme Bench, twenty jurors are presented to the parties. The judge or clerk questions them, and if any are found disqualified they are replaced by others. Each party then strikes four from the list, and the twelve remaining are sworn to try the case.[46] In many jurisdictions all juries are chosen in this manner; elsewhere, as in Philadelphia, it is adopted at the request of either party. A fairer or more expeditious manner of handling peremptory challenges would be hard to devise, but as yet the plan does

[43] Hedger v. The People (1910), 144 Wis. 279, 298-9. In Milwaukee, talesmen are drawn from the regular jury wheel.

[44] This was true also in England, where the struck jury was finally abolished by the Juries Act of 1922. The English special jury of today is one chosen in the regular manner from those possessing a certain amount of property.

[45] 100 Tenn. 573, 575 (1898).

[46] Each party is given a list containing the twenty names and the striking is done in secret, the clerk striking additional names in case of duplication. Other courts conduct the striking in the same manner as peremptory challenges, the better practice being for the parties to strike alternately, the plaintiff first.

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not appear to have been applied to the class of cases where the peremptory challenge is of greatest importance, i. e., the trial of felonies.

Another modern use of the struck jury, where its purpose is more akin to that of Blackstone's day, is in the court of the justice of the peace. Since a jury is seldom required, no regular panel is in attendance, and until such time as the justice is authorized to borrow a jury from a neighboring court the only alternative seems to be to fall back upon common law methods. To prevent too great a degree of control from resting with the justice or the constable, it is commonly provided that the court shall present a list of some eighteen names to the parties, each of whom shall strike six, the remaining six being summoned as the jury for the case.[47] If talesmen are required, they are chosen in the same manner. Needless to say, the practice is not a satisfactory one.

III. COURTS IN CITIES

The most serious problems of judicial administration today are peculiarly city problems. This is particularly true of those centering about the jury system. It is in cities that the evils of the tales system, the defective functioning of the jury commission, and other deficiencies reach their height. This is needlessly so. The multi-judge court, when properly administered, is the most efficient court yet devised, and that this can be as true in relation to jury selection as to any other feature of court administration has been conclusively demonstrated in a number of jurisdictions. But it is necessary to abandon what Chief Justice Taft describes as our policy of requiring each judge to paddle his own canoe, and to adopt in its stead a policy of inter-judge and inter-court coöperation.

One of the most efficient methods of handling juries in a large court is in use in the Cleveland Court of Common Pleas. Only 24 more jurors than are needed to give each judge a jury of twelve are summoned on a given venire. These names, close to 200 in all, are placed in a jury wheel in charge of the assignment commissioner. When a case is called and sent to a given department for trial, 18 jurors, drawn from this wheel, accompany the parties.[48] The trial judge examines

[47] The size of juries in justices' courts has quite commonly been reduced to six.

[48] This court uses the master calendar system of assigning cases, but of course the same method of a pooled jury panel could be fitted to the standard system. For a description of the master calendar, see the writer's article on "The Judicial Council Movement" in the November, 1928, issue of this *Review*.

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these on their *voir dire,* counsel being permitted to ask additional questions if they desire, and ineligible candidates are replaced by others. Each party then strikes three names, and the six whose services are not required return to the assembly room, their names being replaced in the wheel ready for the drawing of the next jury. If a jury is not secured from the first eighteen, additional names are drawn from the wheel.

The Cleveland method has a number of very obvious advantages. Fewer jurors are needed, yet talesmen are almost unknown. Jury tampering in advance of the trial is next to impossible. As one jury retires to consider its verdict another is chosen for the trial of the next case. Justice Fritz, under a similar scheme in Milwaukee, has on several occasions had two juries out deliberating while still another was hearing evidence in a third case; and the writer understands that similar experiences are quite common in Baltimore. When Presiding Judge Ward, of the San Francisco Superior Court, copied the Cleveland plan in 1925, in an attempt to enable his court to catch up with its work, the results were so striking that the system was adopted on a permanent basis, and it is now provided for in the rules promulgated by the judicial council.[49] The writer knows of no instance in which this practice, once adopted, has been abandoned.

Even without adopting the Cleveland plan, many of its benefits can be secured by a policy of coöperation, each judge feeling free to call upon any other department when additional jurors are required. This is now the accepted practice in New York, Los Angeles, and a number of other jurisdictions, although its legality was in serious doubt in earlier years. The California Supreme Court held that "for the trial of causes" the various departments were distinct courts, and that the only way any given department could secure additional jurors was to summon talesmen in the regular manner.[50] The Los Angeles courts, however, very sensibly refused to accept the decision as final and secured an amendment to the statutes authorizing the continuance of

[49] Rule 25 (5), adopted August 1, 1928; continued as rule 24 (5), February 1, 1929. The master calendar, together with the pooled jury, increased the efficiency of the court nearly fifty per cent. Judicial Council of California, *Second Report* (1929), pp. 36-7. The Chicago Municipal Court feels that at least $30,000 a year is saved through its pooled jury reserve as against a separate panel for each judge.

[50] The People v. Compton (1901), 132 Cal. 484; The People v. Wong Bin (1903), 139 Cal. 60.

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their practice of coöperation.[51] Similar statutes have been adopted in many other jurisdictions, and a more sympathetic attitude on the part of many appellate courts has rendered them unnecessary in others.[52] There would still seem to be some doubt as to the legality of such an interchange of jurors between distinct courts, rather than departments of the same court;[53] but in many jurisdictions this is likewise the established custom.

In conclusion, it should be pointed out that anyone who makes a study of the methods of jury selection now in use will be struck by the fact that the greatest advance has been made in those jurisdictions where the courts have been free to exercise a fair amount of control by court rules, rather than in those where they are bound down by detailed statutory provisions. This is particularly true where the courts are so organized as to have an effective administrative head, and where they have had the assistance of the research and exchange of ideas made possible by a conference of judges or a judicial council. The attention now being devoted by the latter bodies to the problem of jury trial is encouraging.[54] The most recent proposal, emanating from California, is that the selection, returning, summoning, drawing, and impaneling of jurors be regulated by rules adopted by the judicial council.[55] A provision to this effect in a bill presented to the legislature failed,[56] but it may pass at a future date. In that event, we can look to California for further refinements in our methods of jury selection.

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[51] *Laws*, 190E, p. 680.

[52] "There is but one criminal court of Cook county. All the jurors properly drawn and summoned . . . . are eligible for service in any branch of the court . . . . , and may be transferred from one branch to another as suits the convenience of the various branches of that court." Winstrand v. The People (1904), 213 Ill. 72, 77.

[53] See 35 *Corpus Juris* 291, which states unqualifiedly that "it is error to transfer jurors from another court." It appears, however, that there is little authority for this statement.

[54] See especially the *Second Report* (1929) of the California council and the *Second Report* (1928) of the Rhode Island council. The latter devotes about one-half of its entire report to jury trial.

[55] *Second Report* (1929), p. 95.

[56] Senate bill 84, as introduced. The bill passed, but the provision mentioned was dropped.

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NOTES ON RURAL LOCAL GOVERNMENT

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Development of Newer County Functions. There has been a tendency in the United States for the state to assume functions which were formerly performed by counties. This may be seen in state institutions for the care of defective classes, as the deaf, dumb, blind, and insane. State systems of highways and state police systems have transferred in part the performance of these functions from county to state control. Other examples might be given. But as the state assumes the performance of some functions, newer activities are being undertaken and governmental services rendered by counties.

County libraries are among the newer county functions. They were first authorized by law in Indiana in 1816; the territory of Wyoming also passed a county library law in 1886. There was, however, no appreciable development of book service for rural areas under either of these laws. County libraries were authorized in Ohio in 1898; in Wisconsin in 1901; in Oregon in 1903; and in California in 1909. By 1925, county library laws had been passed in twenty-five other states,[1] although in some of these no libraries have actually been established. Since that time, county library laws have been passed in Arkansas and Nevada. While Oklahoma has no county library law, at least two counties are furnishing such service under a provision of the statutes

[1] Alabama, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi (only for certain counties), Missouri, Montana, Nebraska, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, and Wyoming. According to a bulletin published by the U. S. Bureau of Education in 1926, the number of libraries under county control having 3,000 volumes or over in 1923 was as follows: California, 38; Washington, 2; Oregon, 2; Wyoming, 12; Utah, 6; Montana, 7; Iowa, 1; Illinois, 1; Indiana, 8; Ohio, 5; Pennsylvania, 4; Massachusetts, 6 (law libraries); Connecticut, 2 (law libraries); New Jersey, 4; Maryland, 1; North Carolina, 1; South Carolina, 1; Tennessee, 1; Georgia, 1; Texas, 5. "Statistics of Public, Society, and School Libraries, 1923," *Bulletin, 1926, No. 9, United States Bureau of Education.* Also see William J. Hamilton, "County Library Laws in the United States," 45 *Library Journal* 727 (1920); Harriet C. Long, *County Library Service* (1925).

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which stipulates that "county commissioners may contract for other public purposes."

The authority to establish a county library is usually vested in the county board. In some cases the board may establish such a county library when it sees fit, while in others it can do so only upon petition of a certain number or per cent of the taxpayers. In some states, as New York, Nebraska, and Texas, the county board may establish a county library only after a favorable vote of the electorate upon the proposition. The laws in most states provide for the appointment of a county library board in case a library is established; such boards, composed of three to nine members, are usually appointed by the county commissioners. In California, Montana, and Texas there is no county library board, the library being under the supervision and control of the county board.

Most states provide not only for the establishment by the county of a library but also that such service may be secured by contract with an existing library in the county. While this method is optional in most cases, three states (Iowa, Michigan, and North Carolina) provide for county library service by this method only.

The maintenance of hospitals has been a development of recent years in the field of county functions. Some provision for medical attention was early made in county almshouses. A number of almshouse hospitals date from the second quarter of the nineteenth century, and some of these have been made available to others than regular inmates. In 1872 New York authorized county and other local authorities to provide hospital treatment for indigent persons in existing hospitals; and in the same year California authorized boards of supervisors in each county to establish and maintain a county hospital.[2]

A more general movement for county hospitals has developed since 1900. County hospitals were authorized in Indiana in 1903 and in Iowa in 1909.[3] Since that time they have been authorized in at least fifteen other states.[4] By 1928, there were 489 county hospitals in the

[2] *N. Y. Laws*, 1872, ch. 733; 1901, ch. 103; *Kerr's Consol. Laws of N. Y.* Ann., ch. 42, sec. 30; *Kerr's Codes of Calif., Pol. Code*, sec. 4223.

[3] *Burns Ind. Stat.*, 1926, sec. 4363; Walter A. Dyer, "Putting Character into Counties," 30 *World's Work* 604-609 (1913); Walter C. Nason, "Rural Hospitals," U. S. Dept. of Agriculture, *Farmer's Bulletin*, No. 1485.

[4] Massachusetts, Pennsylvania, North Carolina, Kentucky, Michigan, Wisconsin, Minnesota, Missouri, Kansas, South Dakota, Colorado, Wyoming, Washington, Oregon, and Texas.

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United States, with 62,231 beds, an increase of forty per cent over 1923. The largest numbers are: California, 57; Wisconsin, 55; and New York, 50. Indiana, Illinois, Michigan, Ohio, Pennsylvania, and New Jersey have from 20 to 32 county hospitals each.[5]

The maintenance of parks is another of the newer county functions. The first county park in the United States was established in Essex county, New Jersey, in 1895; county parks were next established in Hudson county, New Jersey, in 1903, and in Cook and DuPage counties, Illinois, in 1915. Since that time the movement has spread until by 1928 there were about 45 such parks in the United States.[6]

Various methods are used for controlling and supervising county parks. They may be under the control of the county board of supervisors, as in Los Angeles county, California, and Cook county, Illinois; they may be under an elected board, as in Clark county, Washington, and Santa Clara county, California; they are under the control of a board appointed by the county board in some cases, as in Erie county, New York, and Marathon county, Wisconsin; and in Essex, Hudson, and Union counties, New Jersey, they are under the control of a board appointed by the courts. Still other methods are used to govern and control parks.

The methods used to finance county parks also show great variation. In some cases they are financed out of the general funds of the county; in some states provision is made for a special tax levy for county parks; and in Rockingham county, North Carolina, they are supported by membership dues and contributions of interested citizens.

Counties in Pennsylvania and Florida have been empowered to provide recreation centers, playgrounds, gymnasiums, and swimming

[5] "Hospital Service in the United States," *Journal of the American Medical Association*, March 30, 1929.

[6] In a study published by the U. S. Department of Labor in 1928 the following thirty-three counties were listed as having county parks: Bergen, Camden, Essex, Hudson, and Union counties, New Jersey; Berkeley county, West Virginia; Clark and Grays Harbor counties, Washington; Clatsop county, Oregon; Cook and DuPage counties, Illinois; Erie and Westchester counties, New York; Guilford and Rockingham counties, North Carolina; Harris and Tarrant counties, Texas; Henry county, Indiana; Humboldt, Kern, Los Angeles, Orange, and Santa Clara counties, California; Jackson, Muskegon, and Wayne counties, Michigan; Jackson county, Missouri; Marathon and Milwaukee counties, Wisconsin; Orange county, Florida; Pueblo county, Colorado; and Ramsay county, Minnesota. Converse county, Wyoming, had a park which was acquired by gift rather than purchase, as in the case of the other county parks listed above. Twelve other counties were

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pools.[7] Following the World War, counties have been given the power in several states to construct memorials, armories, and public buildings in memory of the men who lost their lives. In Nebraska, counties may expend money for the purchase of sites and the erection of monuments or markers for the purpose of identifying places of local historic interest.[8]

Counties in a few states have now been authorized to establish and maintain airports. Among the states which empower counties to assume this new function are Pennsylvania, Michigan, Indiana, North Carolina, Texas, Wyoming, Idaho, and California.[9]

Laws authorizing counties to carry out county or regional plans, or to coöperate in the development of such plans, have been passed in Ohio, Michigan, Wisconsin, Illinois, and California.[10] At least six counties in the United States now have county plans in effect. The chief purpose thus far seems to be the control of land subdivision.[11]

County aid to agricultural interests has been given in various ways, and new methods have been developed in recent years. From early in the nineteenth century, county fairs began to be held, and with the aid of county and state funds they became familiar and important institutions. In later years the character and influence of these fairs have declined; in some states public funds have been discontinued; and in many places the local fairs have been abandoned. Farmers' institutes, of a more definitely educational character, were begun in Illinois and Iowa about 1870 and have since been established in other states.

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reported as having parks in 1928, but the data were not sufficient to include in the report. "Park Recreation Areas in the United States," *Bulletin of the United States Bureau of Labor Statistics*, No. 462 (Washington, 1928).

[7] *Pa. Stat. Complete to 1920*, secs. 15, 822-15 ff.; *Fla. Cum. Stat.*, 1925, ch. 32A.

[8] *Comp. Stat. of Neb.*, 1922, secs. 6812-16.

[9] *Pa. Stat., Supp.*, 1928, secs. 460—A1—A5; *Public Acts Mich.*, 1927, p. 372; *Sess. Laws Wyo.*, 1927, p. 74; *Codes and Gen. Laws Calif.*, Supp. 1925-27, sec. 4056 c; *Burns. Ind. Stat.*, 1926, vol. 2, secs. 3838 ff.; *Public Laws N. C.*, 1929, p. 64; *Sess. Laws Idaho*, 1929, ch. 106; *Texas Laws*, 1929, p. 614.

[10] *Page's Ohio Code*, vol. 1, sec. 4366-13; *Laws of Wis.*, 1925, ch. 438; *ibid.*, 1927, ch. 375; *Public Acts Mich.*, 1927, No. 260; *Ill. Sess. Laws*, 1929, p. 308; *Calif. Stat. and Amendments to the Codes*, 1929, ch. 838.

[11] 5 *City Planning* 177 (1929). DuPage county, Illinois; Glynn county, Georgia; Kenosha county, Wisconsin; Lucas county, Ohio; Santa Barbara county, California; and Wayne county, Michigan.

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Giving aid to needy farmers to enable them to secure seed grain and feed is now a county function in a few states. Counties in North Dakota were authorized in 1909 to aid needy farmers in securing seed grain. This is done where the crops for any preceding year have been a total or partial failure by reason of drouth, hail, or other cause. Applicants must sign an agreement to pay the amount of cost of any grain furnished.[12] Similar laws have been passed in Minnesota, Montana, and Kansas.[13]

An important and widespread recent movement for the improvement of agriculture has been through trained county farm agents and bureaus. These are maintained with the coöperation of the U. S. Department of Agriculture, state agricultural colleges, county authorities, and voluntary associations. Begun in 1904 in the Southern states, and in the Northern states some years later, by 1914 there were more than nine hundred county advisors. In 1909, Mississippi authorized county boards to make grants of money for such county advisors; New York and North Dakota followed in 1912; and similar action has been taken in many other states.[14]

The Smith-Lever Extension Act of 1914 provided larger funds from the United States, and placed the work on a more systematic basis. By 1924, county farm advisors were operating in 2,084 counties, in all of the states—five states, Connecticut, Delaware, Maine, Maryland, and New Hampshire, having these agents in every county. County agents are chosen through the joint action of state agricultural colleges and county advisory committees. About a third of the cost comes from the United States, a fourth from state funds, about thirty per cent from counties, and the balance from fees of local associations and other sources.

In some states the statutes merely authorize the county board to give aid to such organizations in case it sees fit. Thus in Missouri the county court, "for the purpose of promoting the public welfare by assisting in the general betterment of farm and home practices and conditions," may appropriate out of the general funds of the county such sums as

[12] *Comp. Laws of N. D.*, 1913, vol. 1, secs. 3471-3490. Amended at the special session of 1918.

[13] *Supp. Minn. Stat.*, 1917, sec. 745-4; *Rev. Codes Mont.*, 1921, vol. 1, secs. 4640-4679; *Laws of Kas.*, 1927, ch. 174.

[14] M. C. Burritt, *The County Agent and the Farm Bureau* (New York, 1922); William A. Lloyd, "County Agricultural Agent Work under the Smith-Lever Act, 1914-1924," U. S. Dept. of Agriculture, *Misc. Circular*, No. 59 (1926).

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it may deem proper for the support of any farm organization.[15] In other states, however, the giving of the aid is mandatory. Thus in Kansas, boards of county commissioners must contribute not less than $1,200 a year to assist in the payment of the salary of the county agricultural agent and the expenses of the farm bureau in counties where such a bureau is organized having a membership of twenty-five per cent of the bona fide farmers of the county, or as many as 250 members.[16]

New activities have been developed in the field of older functions. In the field of charities and corrections may be mentioned specialized child welfare work, mothers' pensions, and blind pensions. The first mothers' pension laws were passed in Illinois and Missouri in 1911, and by 1927, laws providing for such pensions had been passed in forty-two states.[17] In several states a part or all of the funds are provided by the state, but in eight states all is paid by the county, and a part in several others. Boards of county commissioners in Kansas may by unanimous vote pay a monthly pension to any persons who are disabled from performing manual labor and whose parents or relatives are not financially able to care for them.[18] Wisconsin, by act of 1925, authorized county boards, by a two-thirds vote, to establish old-age pensions.[19]

Developments in the field of county health administration are county nurses and full-time county health departments. Since the first full-time county health department was established in 1911 (Yakima county, Washington), the movement has continued until on January 1, 1926, there were 307 departments of this nature. The states having the largest number of counties with full-time health departments were Alabama, Georgia, North Carolina, and Ohio. The movement has made the greatest progress in the Southern states.[20]

The county is tending to become a more important unit in educational administration. This may be seen in the increased use of the county unit system of school administration since 1900. By 1927, eleven states were classed as having the strong county unit type of

[15] *Supp. to Mo. Stat.*, 1927, p. 781.

[16] *Rev. Stat. of Kas.*, 1923, sec. 2-601. Cf. *Burns Ind. Stat.*, 1926, secs. 7045 ff.; *Mason's Minn. Stat.*, 1927, vol. 1, sec. 668.

[17] Grace Abbott "Standards of Rural Child Welfare," *Proceedings of 54th Annual Conference of Social Work*, p. 30 (1927).

[18] *Rev. Stat. of Kas.*, 1923, sec. 19-244 ff.

[19] *Laws of Wis.*, 1925, ch. 121.

[20] *The County Health Unit* (Milbank Memorial Fund, 1927).

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school administration; eight others were classed as having the weak county unit form; and three others were referred to as having made "feeble beginnings" in county unit organization.[21]

County high schools and county schools for special types of instruction are maintained in more than half of the states, including a number of states in addition to those where the general public school system is based on the county unit. County high schools are authorized most commonly in the Western and Southern states. More than a hundred county normal schools are reported in Michigan, Ohio, and Wisconsin. County schools of agriculture and domestic economy were organized in Wisconsin in 1901; and since that time they have been authorized in Minnesota, Michigan, California, New Jersey, North Dakota, North Carolina, and Mississippi. Seven of the fourteen counties in Massachusetts maintain training schools for juvenile delinquents. Minnesota has authorized such schools in counties of over 33,000 population; Missouri for Jackson county; and Pennsylvania has authorized county commissioners to establish such schools for children under the care of the juvenile court.[22]

It may thus be seen that new functions are being developed by counties to replace those which are being taken over by the state. In general, the newer functions seem to relate more to local affairs—to questions in which the people of the locality are primarily concerned—rather than to services performed by the county as an agent of the state. The development of this type of function indicates that the county will continue as a significant unit of local government.

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Boston and Suffolk County. The problem of city and county in the United States seems to assume in certain quarters the impregnability of a Verdun defying the determined assaults of city councillors, county commissioners, and state legislatures. This is true of the knotted and gnarled relationships of Boston and Suffolk county. Boston is the lion of Suffolk county and pays more than the lion's share of expenses.

[21] Benjamin J. Burris, *The County Unit System, How Organized and Administered* (1924); Julian E. Butterworth, "Types of Educational Control in the United States," 15 *Journal of Educational Research* 349 (1927).

[22] *Gen. Laws Mass.*, 1921, ch. 77; *Mason's Minn. Stat.*, 1927, sec. 8649; *Rev. Stat. Mo.*, 1919, sec. 13802; *Pa. Stat. Complete to 1920*, sec. 13417.

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Suffolk county also includes the cities of Chelsea and Revere and the town of Winthrop. A century ago, Suffolk county contained Boston and the town of Chelsea. But in 1846 North Chelsea was set off from Chelsea. In 1852 one part of North Chelsea became the town of Winthrop, and in 1871 the remainder of North Chelsea became Revere, now a city in itself. Chelsea, Revere, and Winthrop cover approximately seventeen per cent of the county area. In 1920 they contained about ten per cent of the total population.[1] The mayor and city council of Boston serve as the county commissioners of Suffolk county, and Boston, not without much grumbling, bears the burden of all county expenses. The resultant pulling at cross purposes between Boston, Chelsea, Revere, and Winthrop is a recurrent phenomenon.

The root of this evil lies in the legislative acts of 1821 and 1831. By action of the General Court in 1821 it was provided: "That the town of Chelsea shall continue to be a part of the county of Suffolk .... excepting that the town of Chelsea shall not be liable to taxation for any county purposes, until the legislature shall otherwise order."[2] Ten years later, in 1831, the legislature stipulated that the connection between Boston and Chelsea should continue if Chelsea would release to Boston its interest and estate in county property.[3] In pursuance of this act, all county property was deeded by Chelsea to Boston. As a return for this cession of property rights, Chelsea has considered herself freed by contract from Suffolk county taxes.

Boston seemed to have the best of the bargain in 1831, but time has proved that Chelsea by no means exchanged her birthright for a mess of pottage. The valuation of Chelsea at the time was so small that her proportionate share of county expenses would have been slight. In 1830 the valuation of Boston was "$60,698,200, and that of Chelsea was .... $244,261, making the difference in valuation so great that if Chelsea had at that time been required to pay its share of the county expenses, which amounted to $15,338 net, it would not have equalled $100."[4] But as county expenditures mounted and the valuation of Chelsea increased, Boston became more and more disgruntled with the arrangement. The town of Chelsea became the cities of Chelsea and Revere and the town of Winthrop. These governmental units in Suf-

[1] John Koren, *Boston 1822 to 1922*, p. 189.
[2] Mass., *Special Laws* (1821), ch. 109, sec. 1.
[3] *Ibid.* (1831), ch. 65, sec. 1.
[4] Mass., *Legislative Documents* (1914), House No. 2090, p. 9.

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folk county no longer constituted such a small part of the total valuation as to make their share of county expenditures a mere bagatelle. Whereas in 1831 Boston contained more than ninety-nine per cent of the total valuation of Suffolk county, in 1921 Boston could muster less than ninety-five per cent of the county valuation.[5] County expenses, which totaled $15,338 in 1831, called in 1929 for a budget of $3,675,519. Henry Parkman Jr., a member of the Boston city council, estimated in March, 1929, that the present arrangement had cost the city of Boston since 1831 approximately $2,500,000, which would have been the equitable share of Chelsea, Revere, and Winthrop in county expenses.[6]

Boston has often attempted to lighten this onerous burden. In the 1929 session a resolution was submitted to the General Court providing: "That an unpaid special commission .... investigate the question of the equitable apportionment of expenses of Suffolk county, including the question of the advisability of changing the boundary of the counties of Suffolk and Middlesex so that Suffolk county shall include only the city of Boston and that the cities of Chelsea and Revere and the town of Winthrop shall be included in Middlesex county."[7] But this effort to investigate the local city-county problem was unfortunately defeated in committee by Mayor Cassassa of Revere. The creation of co-terminous boundaries for the city of Boston and the county of Suffolk would be a great advance. It would eliminate the constant friction now resulting from the conflicting interests of Boston, Chelsea, Revere, and Winthrop.

The existing situation is a labyrinth, with intricacies and complexities at every turn. The mayor and city council of Boston act as a Suffolk county commission, with certain exceptions. In Chelsea, the laying out of highways and other similar duties of county commissioners are performed by the board of aldermen of Chelsea. In Revere and Winthrop, these same duties are performed by the county commissioners of Middlesex county.[8] One of the most curious anomalies is the fact that Boston pays yearly as part of the county budget for the maintenance of the Chelsea police court; while Chelsea derives the

[5] John Koren, *Boston 1822 to 1922*, p. 189.

[6] This statement was made in an address to the Boston League of Women Voters.

[7] Mass., *Legislative Documents* (1929), Senate No. 201.

[8] Mass., *General Laws* (1921), ch. 34, sec. 4.

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revenue from the fines. This situation has been characterized by a prominent Boston official as "awfully funny."

A plan was suggested in the past to have a county commission made up of the city council of Boston ex-officio plus two county commissioners each from Chelsea and Revere and one from Winthrop. In return for this representation, Chelsea, Revere, and Winthrop were to pay their fair share of county expenses.[9] Such a plan would be highly agreeable to Boston, since the Hub would have a very safe majority in the county commission and would pay only a proportionate share of county expenses. But the city fathers of Revere maintain that they should pay a fair share of county expenses only on condition that a standard county government is set up for Suffolk county. Under the general laws of the state, "no more than one of the county commissioners and associate commissioners shall be chosen from the same city or town."[10] Such a county organization, if established in Suffolk county, would undermine the control of county patronage by Boston politicians.

The situation remains deadlocked. So great is the force of tradition and the interplay of local interest that a solution of the relation between Boston and Suffolk county seems as remote as the unification of the Boston metropolitan area into a Greater Boston. Expound at length, if you will, on the creation of co-terminous boundaries for Boston and Suffolk county, on city-county consolidation, or a federated plan of city-county consolidation. All these are theories, so far as Boston and Suffolk county are concerned. It is a condition, not a theory, that controls.

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[9] Mass., *Legislative Documents* (1914), House No. 2090, Exhibits F and G.
[10] Mass., *General Laws* (1921), ch. 54, sec. 158.

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FOREIGN GOVERNMENTS AND POLITICS

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The Constitutional Crisis in Austria. Constitutionalism, in Austria, is not a new slogan. It was a phrase to conjure with during the entire lifetime of Francis Joseph, though in practice the whole history of the country down to the revolution of 1918 was its virtual negation.[1] Only in the latter days of the monarchy, when the scepter passed from the hands of Francis Joseph to the inexperienced young emperor Karl, was a modicum of popular expression allowed to supplant the personal autocracy of the sovereign.[2] The old Austria passed out of existence in 1918 without the successful implantation of a régime of liberal legality in any of its parts.

The young Austrian Republic, coming into existence in the hour of the Empire's dissolution, thus inherited a legacy of unconstitutional government, and only the solidity of socialist and clerical party organization, bred of the stress and strain of clashing conceptions of the social order, gave support to the government in the days when social revolution swept almost to the doors of Vienna. It was under such circumstances that Austria entered, in 1918, upon the way of constitutionalism and sought, through her provisional instruments of government, to avoid the autocratic excesses of the past and avert the impending perils of a proletarian dictatorship.

In a series of revolutionary pronouncements and decisions of her provisional assembly, she discarded, under socialist leadership, the arbitrary régime attendant on the monarchy, and, establishing a unitary democratic republic with far-reaching local self-government as a stepping-stone toward union with Germany, inaugurated a régime of unquestioned parliamentary supremacy, strict ministerial responsibility, virtual executive impotence, and extensive socialization.[3] Such was the first, and spontaneous, reaction to the fact of liberation.

[1] Cf. Joseph Redlich, *Emperor Francis Joseph*, pp. 536-539.
[2] Cf. *ibid.*, *Austrian War Government*, pp. 136-164.
[3] Cf. Hans Kelsen, *Die Verfassungsgesetze der Republik Deutsch-Oesterreich*, (1919).

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After the veto on Austro-German union there came, in 1920, a period of reaction characterized by provincial separatism, parliamentary impotence, fiscal inflation, and general disillusionment. In this stage setting the final constitution was elaborated by provincial conferences and enacted, almost without change, by a paralytic constituent assembly.[4] That instrument abandoned unitarism in favor of the federal framework, in part to avoid the preponderance of socialist Vienna over a clerical countryside and thus to stalemate socialization; in part to erect a barrier to the eventual integration of Austria into the German Reich. It further deliberately instituted a bicameral legislative structure to represent the nation in the Nationalrat, and the provinces, proportionately to their population, in the Bundesrat. As chief of state, it created a federal president, elected by the chambers, and with less authority and far less prestige than the president of France. It markedly decentralized local government, giving the federal authorities neither fiscal nor administrative control over most aspects of provincial life. Finally, it placed in the hands of the constitutional court, composed of professional judges of conservative temperament, the ultimate power of surveillance over the spheres of federal and provincial authority. All told, the constitution represented a far-reaching modification of the régime which the Social Democrats, after the revolution, had hoped to bring about in Austria; yet it rectified most of the major errors of Habsburg misrule.

Nine years of experience under the constitution have sufficed to throw light on the trend and incidence of its operation and to make clear its defects. The sanguine hopes of the Social Democrats that, after the 1920 elections, they would be able to command the necessary majorities to run the government single-handedly were destined to prove an illusion, and the coalition of non-socialist parties (Christian Socialists, Pan-Germans, and Agrarians) has maintained an undisputed control of the federal structure since the constitution went into effect. Despite the appreciable growth of the Social Democratic party revealed by the parliamentary elections of 1923 and 1927, the federal constitution has been continuously utilized by successive bourgeois coalitions as an instrument of party domination to exclude the Social Democrats from all participation in the federal government.[5]

[4] Cf. *ibid.* For an English translation, cf. McBain and Rogers, *The New Constitutions of Europe*, pp. 256-306.

[5] The status of the parties may be seen from the following table [see next page]:

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The initial effect of the constitution in operation was, irrespective of what the intentions of its framers may have been, to accentuate provincial separatism, particularly in 1921, when the efforts of the individual provinces to break away from the federal union and annex themselves to Germany as individual territories challenged the authority of the federal government and were stopped only by Allied pressure and the insistence of Chancellor Schober.[6] Political separatism once checked, the next evidences of over-federalization were the studied efforts of the provinces to evade all fiscal or administrative control over their expenditures—a situation which markedly curtailed the efficacy of the measures devised at Geneva for Austria's financial salvation. What profit drastically to curtail federal expenditure in any stabilization program if the provincial budgets merely took on the burdens cast off by the federal treasury? The result of three years' unhappy experience along this line was the summoning of the *Länderkonferenz* of 1925, which succeeded in devising a limited measure of audit controls over provincial expenditure. Plainly, the allocation of authority between the federation and the provinces under the 1920 constitution was breaking down. It took formal amendment to accomplish this reform, and even the staunchest supporters of the federal system were forced to acknowledge that the distribution of functions was at fault because of giving too much authority to the privincial governments.[7] Apart, however, from this formal modification of the fundamental law essential to the carrying out of the financial reconstruction program, no further amendment took place. By 1926, provincial separatism had been cured by a sound currency and appropriate administrative controls and had

PARTY	1919	1920	1923	1927
Agrarian	—	7	6	9
Christian Socialist	69	85	82	73
Pan-German	26	21	12	12
Social Democrat	72	66	69	71

At the elections of 1927 the Social Democrats polled 1,534,088 votes, or 42.3 per cent; the combined governmental parties 1,983,323, or 54.5 per cent. The Austrian Communist group polled 16,181 or 0.4 per cent. Cf. *Statistische Nachrichten*, June, 1927. It was estimated in 1928 that the municipal elections indicated a general gain of 3 per cent over the percentages of 1927 for the Social Democrats, with marked increases in Vienna, Salzburg, and Carinthia. Cf. *Bulletin Périodique de la Presse Autrichienne*, No. 189, May 17, 1929.

[6] Cf. M. W. Graham, *New Governments of Central Europe*, pp. 187-191.

[7] Cf. *Bulletin Périodique de la Presse Autrichienne*, No. 164, September 10. 1925.

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ceased to be a problem. If anything, the tide had begun to flow in the other direction—that of centralization—in the hope that a unitary, or at least more integrated, state might be less costly to administer.[8]

The second effect of constitutional operation was to reveal to a large group of Austrians of all shades of religious and political opinion that the federal structure devised in 1920 from a domestic standpoint to "neutralize" socialist Vienna was, as had been intended by a group of its framers, a basic obstacle to the realization of Austro-German union. After Locarno, and after Germany's admission to the League of Nations, the imminent political dangers attaching to any attempt at *Anschluss* began to lessen, and there arose the possibility of working toward that objective by a policy of coöperative action on both sides of the frontier. Forthwith there came into being a full-fledged movement for *Ausgleichung,* for the assimilation of Austrian to German legislation, for identical judicial procedure and codes, for analogous administrative action, for parallel governmental policy. Through 1926, 1927, and 1928 the movement was confined to the legislative and administrative fields. By 1929 it had gained ground to the point where open advocacy of constitutional change in the interest of *Ausgleichung* supplanted the milder forms of the Anschluss movement. To revamp the Austrian instrument *more Germanorum* became the order of the day.[9]

A third and most significant outworking of the constitution was the functioning of the courts under it. Leaving aside matters of civil and administrative justice, where no acute controversy arose, and considering merely the processes of criminal justice, it is apparent that a large part of the Austrian citizenry regarded the judiciary as the final bastion of conservatism, tending at times to safeguard too well the rights of property at the expense of human rights and to render political decisions. The manifestly outraged sentiments of the Viennese throngs after the political decision in the famous Schattendorf trial[10] gave forceful expression to a feeling long latent that both

[8] Such was the objective of financial legislation proposed in May, 1928, by Finance Minister Kienbock with a view to federal supervision of provincial financial administration. According to the socialist *Arbeiterzeitung,* June 8, 1928, such legislation would tend to make Austria a unitary state, while the *Neues Wiener Tageblatt,* May 31, 1928, openly declared that "the economic necessities of today condemn an onerous and cumbrous federalism."

[9] Cf. *Bulletin Périodique de la Presse Autrichienne,* No. 192, February 26, 1929.

[10] This trial of Hungarian individuals accused of shooting workers in a Schutzbund parade at Schattendorf, in Burgenland, resulted in their acquittal, July 15,

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judges and juries were distinctly amenable to governmental, i.e., clerical, pressure, and that the laboring elements in the republic could not expect even-handed justice under the existing judiciary. The record of the parliamentary inquest into the burning of the Vienna courthouse is studded with references to the overwhelming conviction of large masses of the public that there existed a *Justizkrise*.[11] Plainly, the public mistrust of the machinery of justice was among the many factors giving rise in Austria to the system of private political armies, socialist and conservative, as the readiest means of self-help in the event of a breakdown of the existing allocation of power or of the guarantees of legality.

The final factor in precipitating a constitutional crisis was the growth of socialism. The Social Democratic party, organized and disciplined for years on the German model, had made its appeal, both in 1919 and 1920, on a strictly orthodox Marxian conception of socialism, essentially untainted by Continental revisionism and uncolored by British experience. The chastening received in the year of reaction, 1920, led the party to seek for victory through closer organization and through municipal contests, while the gains in 1923 led it to the belief that it might shortly make a bid for power. By 1926, the party, learning from the experience of British Labor, saw a basic need for reordering its fundamental principles and broadening the scope of its appeal. Hence, in its noteworthy Linz program,[12] it pled for the accession of intellectuals, of women, of the lesser bourgeoisie, to its ranks, irrespective of creed or confession, on the basis of class coöperation. It realized no small gains.[13] Thereafter its continued successes in municipal elections began to alarm the conservative elements, which forthwith took up the ideology and program of fascism and built up

1927. The rioting which followed immediately thereafter in Vienna was poignantly characterized by the *Arbeiterzeitung*, July 15, 1927: "... if the working class distrusts justice, it means the end of the established order. The bourgeois world is always warning against civil war. But this revolting acquittal of individuals who have killed workers and because they have killed workers—is it not in itself civil war? We warn everyone that when such an injustice as that of yesterday is committed, only grave evils will be harvested from it."

[11] Cf. *Bulletin Périodique de la Presse Autrichienne*, No. 183, August 13, 1927, and *Arbeiterzeitung*, July 27, 1927.

[12] Cf. *New York Times*, November 5, 1926, for the details of the Linz program, characterized as "bristling with a recognition of political realities."

[13] Cf. note 5, *supra*.

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a conservative militia, hoping by these means to stave off the day of government by a single-handed socialist majority. This naturally provoked counter-organization by the socialists.

It is immaterial here to attempt to detect or legitimate by chronology the first-born among the private armies, Catholic and socialist, by which Austria is now plagued. Defenders of the socialist militia, the *Republikanischer Schutzbund,*[14] point to this group as the nuclear element in the dissolving imperial armies which worked for the establishment of republicanism, democracy, and socialization in the critical days of 1918, and which, especially since the riots of 1927, has been the safeguard of republican institutions in general and of the laboring elements in particular against every form of reaction or extremism, Right or Left. Protagonists of the *Heimwehr,*[15] or clerical-conservative militia, point out that its activities are sanctioned by the wholly defensive rôle it played during the revolution in 1918 in maintaining law and order in the provinces and protecting the bourgeoisie against menacing social upheaval, and that it is now the principal mainstay of sobriety and authority against the excesses of dogmatic Austro-marxism as exemplified in "red" Vienna. Regardless of their origin or their initial program, the two armies joined issue squarely and became the extra-legal and extra-constitutional machinery of group pressure through which to influence governmental policy and effect fundamental change. The Schutzbund proclaimed its mission to be that of protecting the social democracy of Vienna and the supremacy of the parliamentary republic against impending fascism, while the Heimwehr, borrowing the cheap histrionics of Italian squadrism, set its face like a flint against socialism, enunciated a program intended to undo at a stroke the gains of a decade of parliamentary democracy, and called for a march on Vienna to evict the Marxists by force.[16]

[14] The objectives of the Schutzbund, as a purely defensive body to withstand fascist provocation, are outlined in *Arbeiterzeitung,* November 2, 1927.

[15] An excellent survey of the Heimwehr movement is given in the *Neues Wiener Journal,* November 8, 1927. In the words of the *Wiener Neuste Nachrichten,* December 8, 1927, the Heimwehr is "a popular anti-marxist movement against the terror of the Social Democratic party." Cf. also "Austria, Quo Vadis?", *Central European Observer,* vol. 7, p. 479, Aug. 30, 1929.

[16] In an address on April 7, 1929, Herr Pfrimer, a prominent Heimwehr leader, pronounced for the suppression of the parliamentary régime and the constitution and for a march on Vienna to accomplish this, arms in hand. Similarly, Herr Steidle, the nominal head of the Heimwehr, declared on April 14, 1929: "If our economic and political life is in danger, I have the right to consider the constitution,

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In advocating this essentially anti-parliamentary program, the Heimwehr had the support of monarchist, clerical, and agrarian elements in Austria, of monarchist and national socialist groups in both Hungary and Bavaria, and at least the benevolent sympathy of the German Stahlhelm, while its coffers were filled by Austrian industrialists and German nationalist leaders. On the other hand, the Schutzbund obtained assurances of coöperation from socialists in neighboring countries and the cordial collaboration of the German Republican Reichsbanner group.

That the existence of these jealous rival forces, pitted against each other and threatening civil war, made the task of the federal government extremely difficult is obvious, and for the last two years the government has, of necessity, walked warily. In April, 1929, Chancellor Seipel, sensing that the Heimwehr, which he had unofficially sponsored, was becoming a Frankenstein beyond the power of party control, strategically withdrew from the scene and left to his successor, Herr Streeruwitz, the delicate task of putting the political machinery once more in order by dealing vigorously with the problem of the private armies and enacting constitutional reforms. This the new chancellor was unable to do. The work of reconciling the chasmic differences between armed factions proved impossible, and Herr Streeruwitz, apart from accomplishing some minor judicial reforms and legislative retouching, did nothing more by way of constitutional reconstruction than to listen to the demands of the coalition parties.[17] When Herr Steidle set September 29 as the date for the march on Vienna and the Bauernbund, of which Streeruwitz was a member, joined the Heimwehr en bloc, the Streeruwitz government gave up the ghost. Obviously, a more energetic governmental policy was needed if the existing constitutional order was not to efface itself silently. At this juncture, Herr Schober, who was known to all as an exemplar of law, order, and constitutionality, assumed the chancellorship on a program of immediate constitutional revision and social reconciliation.

The new chancellor was as good as his word. Calling upon his official advisers to bring forth their projects in short order, he presented

which is impotent, as of less value and to suppress it by any means whatsoever. We consciously invoke for our people the case of *force majeure.*'' Cf. *Arbeiterzeitung*, April 10, 18, 1929.

[17] On the general movement for constitutional reform, cf. Hans Kelsen, ''Der Drang zur Verfassungsreform,'' *Neue Freie Presse*, October 6, 1929, pp. 6-7.

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to the Nationalrat on October 18,1929, three bills embodying the gist of the reforms demanded by the government parties and pled for their prompt discussion and enactment.[18] After debate on first reading, the proposals were referred to the Constitutional Commission on October 23. It, in turn, delegated detailed discussion to a sub-committee of eight, representing all parties, which deliberated from October 28 to November 8. The product of its discussions being far from complete, intricate negotiations were undertaken by Schober with Dr. Robert Danneberg as spokesman for the Social Democratic opposition. These were completed by November 13 and the bills returned to the committee. After further amendment, they were reported to the Nationalrat, which voted them on December 7, 1929.

In the program officially put forward by Schober and his colleagues much that was serious and important was mixed with the trivial and politically absurd. Members of the clerical group did not scruple to include among their demands proposals which they knew would be gall and wormwood to the Social Democrats in the Nationalrat.[19] When, however, the proposals are sifted and viewed objectively, they fall into four categories dealing, respectively, with executive, legislative, and judicial institutions and with local governmental functions.

Decidedly foremost among Schober's proposals were those intended to change the presidency from the colorless and inconspicuous position which it occupied under the instrument of 1920 to that of a vigorous executive. In this the strictly constitutional question very quickly became overlaid with considerations from the *Ausgleichung* policy, and it may be said that, on the whole, the proposals have tended consciously to assimilate the position of Dr. Miklas to that of Von Hindenburg.[20]

[18] For a detailed enumeration of Schober's proposals, cf. *Berliner Tageblatt,* October 19, 1929, morning edition, p. 4.

[19] These included restoration of titles of nobility, prohibition of cremation of the dead, censorship over printed matter, theaters, and cinemas, "and a host of other statutory disabilities which apply to members of the socialist party alone." Cf. *London Times,* October 23, 1929, p. 15, c. 5. These failed of final enactment. *New York Times,* December 7, 1929, p. 6, c. 3.

[20] The propositions regarding the presidency put forward by the Pan-German party at Salzburg in 1920, by the Christian Socialists at intervals since the beginning of 1928, and by the Landbund in a memorandum to Chancellor Streeruwitz on August 31, 1929, were, in the main, accepted and utilized by Schober, with the exception of the proposal to give the executive the right to declare martial law in individual provinces. Cf. *Wiener Neuste Nachrichten,* August 28, 1929, and *New York Times,* December 7, 1929.

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First of all, a change in the method of election, from choice by the federal assembly to election by direct vote of the people, was proposed, along with a six-year, in lieu of the existing four-year, term. Initially, it was proposed that in case no candidate received a majority, the choice should be made by the revamped legislative bodies, sitting in joint session, from the three candidates receiving the largest number of votes. In the end, however, a decision was reached to permit a run-off election as in Germany, thus indicating a triumph for the policy of *Ausgleichung*.[21] Second, it was proposed markedly to extend presidential authority by endowing the chief executive with (a) the power of naming and dismissing ministers, (b) the power to convoke the chambers twice yearly and to dissolve them on occasion, but only once for the same cause, (c) the formal command of the army, and (d) the right to issue emergency ordinances having the force of law. While the other modifications encountered no opposition, the ordinance power, strongly reminiscent of the odious Article 14 of the imperial constitution, at first evoked strong socialist resistance. After the Schober-Danneberg negotiations, however, the Social Democrats agreed to give the president, in consultation with a permanent parliamentary commission representative of all parties, ordinance powers subject to subsequent ratification by Parliament.[22] The net effect of these changes was to strengthen the arm of the executive, to place the Austrian presidency on a par with that of Germany, Poland, and Czechoslovakia, and to retrieve, after a decade of disillusionment, the naïve error of supposing that a strong executive necessarily implies autocracy.[23]

[21] *Neue Freie Presse*, December 1, 1929.

[22] *London Times*, November 19, 1929, p. 16, c. 3. It will be recalled that this was, in substance, the actual procedure by Chancellors Seipel and Ramek on financial matters during the period of Austria's financial reconstruction. Cf. M. W. Graham, *New Governments of Central Europe*, p. 194.

[23] This error, a psychological backwash of the experience of a number of countries with the abuse of executive power in time of war and a part of the legacy of misrule inherited in common by the post-war succession states, went furthest in Poland, where Pilsudski's *coup d'état* of 1926 forced a strengthening of the executive along much the same lines as those mentioned above. Czechoslovakia and Finland both avoided the mistake, but it took the brief dictatorship of M. Voldemaras in Lithuania to revamp executive authority there. In Latvia, with a stronger presidency from the start, no such need has been felt, while in Esthonia the fusion of actual with titular executive authority (there being no president) solves the problem. In Jugoslavia, necessity forced resort to a benevolent royal dictatorship to retrieve the deficiencies in executive power; in Hungary, the impo-

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A necessary consequence of the functional redistribution of authority which a strengthening of the executive involves was a marked curtailment of the powers and prerogatives of Parliament. In proposing to take away from that body the power to choose the titular executive, to determine its own time of meeting and prorogation, and, in the case of the ordinance power, a part of its legislative activity, much was done to reduce the exalted position in which Parliament was left in 1920. But Schober's proposals went further. He proposed to restrict the general parliamentary immunities to avoid in the future the recurrence of abuses of the past ten years, particularly through editorial utterances. In relation to the Nationalrat, he proposed to modify the electoral system by raising the voting age from twenty to twenty-one, the age of eligibility to twenty-nine, leaving unchanged the system of proportional representation, but introducing compulsory voting.[24] Regarding the Bundesrat there had been much greater discontent.[25] The proposals made by Schober contemplated reduction of its membership on the territorial basis from 52 to 18—thereby conforming to the two members per canton basis of the Swiss Council of States—and in addition transforming it into a body of a largely functional and corporative character,[26] representing social classes[27] and having much greater

tence of the presidency, under the short-lived Karolyi régime, was one of the reasons for its downfall. The dictatorships of Kun and Horthy followed.

[24] Here Schober fell far short of Heimwehr expectations. It had been the minimum hope of the Heimwehr leaders (1) to reduce the parliamentary seats from 165 to 120, thereby making a smaller number of seats essential to the gaining of a parliamentary majority, and (2) greatly to increase the number of constituencies as a means of breaking the force of socialist party organization. Their maximum program called for the institution of a legislative system "on the lines of the Italian régime." *London Times,* September 9, 1929. The Pan-German party openly proposed the adoption of the German definite-quota, indefinite-number system—largely in the interest of *Ausgleichung. Neue Freie Presse,* September 28, 1929.

[25] Complaint of the futility of the Bundesrat had long been made on the ground that it was a mere shadow of the Nationalrat and that the members of both houses were controlled by the party executives. It stood neither for distinctive provincial representation nor in juxtaposition to the Nationalrat. It was largely on this score that the Bundesrat was thought superfluous. Cf. Franz Winkler, "Fort mit dem Bundesrat," *Neues Wiener Journal,* September 29, 1929, p. 3.

[26] On October 14, 1929, Herr Schumy, Schober's minister of the interior, outlined the government's proposals as adding to the Bundesrat 12 representatives of agricultural proprietors and workers, 9 representatives of commerce, business,

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weight and authority in the government. No effort was made to reduce the scope of its legislative activity, and it may be safely assumed that no attenuation of federal legislative power was intended. The project was, however, apparently sidetracked in committee, and it appears at this writing (December 24, 1929) that in the end the revamping of the Bundesrat was dropped. The much-heralded corporative state appears to be still a prospect, and not yet a reality.

That the judiciary did not come in for a more thorough retouching is attributable to one of the minor reforms of the Streeruwitz régime, namely, the provision for retiring and pensioning a large number of professional judges and the delegating of much judicial routine previously performed by them to younger technical, but not professional, assistants.[28] The government proposals aimed at narrowing the scope of the jury system, particularly as regards press, slander, and political offenses—a point to which the Social Democrats strenuously objected, then reluctantly yielded—and at reorganizing the constitutional and administrative courts, delimiting their competence more carefully, simplifying appeals from the lower administrative tribunals, particularly from Vienna, and changing their personnel to introduce more bureaucratic elements.[29]

In the field of administration and local government, two proposals eventuated, one with regard to the governments of the individual lands

and industry, 9 of workers and private enterprises, 3 from the bureaucracy, and 3 from the liberal professions. Cf. *Berliner Tageblatt,* October 14, 1929, p. 2, c. 2-3.

[27] The sincerity of the federalist doctrine sponsored by Mgr. Seipel and his Christian Socialist followers seems open to some question, inasmuch as their sudden advocacy of the corporative state is without precedent—save in Spain and Italy. It is true that since 1919 there have not been lacking in Austria those who would have liked to see the Bundesrat either supplanted or supplemented by a national economic council such as exists in Germany. The Schober proposal seems, paradoxically enough, to have been a mixture of German socialism and Italo-Spanish corporativism, grafted on to a truncated federal structure. The obvious reduction of proletarian representation in such a body needs no comment, and is indicative of the effort to forestall impending Social Democratic control in certain quarters by corporativism, today a much stronger control mechanism than the federal structure meekly accepted by the strong socialist minority in the Constituent Assembly in 1920. Cf. Ignatz Seipel, *Die Kampf um die oesterreichische Verfassung,* Vienna, 1929.

[28] Cf. *Central European Observer,* vol. 7, p. 409, July 26, 1929.

[29] Cf. *London Times,* October 23, 1929, and *Neue Freie Presse,* December 1, 1929, p. 9.

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or provinces, and the other with reference to the status of Vienna. In the interests of economy, simplification—a definitely anti-federalist, centralist tendency—and party control, it was proposed that the provincial governments and diets both be reduced in size.[30] To such proposal, save as its incidence might be adverse to specific party representation, no serious objection in principle was made. A tightening of fiscal and administrative control was the complementary measure, provincial finances being subjected to the federal *Rechnungshof*.

As regards Vienna, with a third of the country's population, the situation was different. To reduce the capital city from the status of an autonomous province of the federation to that of a mere municipality was tantamount to forcing the Social Democrats to civil war;[31] hence such a move was destined to have scant fruition. Two definite changes were, however, made in the status of Vienna. The first concerned Viennese finances, it being a logical corollary of the extension of financial control over the provinces that Vienna, hitherto utterly exempted, must come definitely under federal audit control, but nothing more. The second dealt with the police. This was placed under federal control, a proposition galling to the Social Democrats[32] but in the end reluctantly accepted by them.[33] In the future, apparently, there is to be permitted no such conflict of authority between the municipal security officers and a national gendarmerie as was partially responsible for the bloodshed during the Vienna riots of 1927. Should some future day witness a Social Democratic government in office, the power to control the police throughout the country would be a privilege not to be lightly spurned by the present opposition party.

[30] Dr. Stumpf, Landeshauptmann of the Tyrol, declared himself in full agreement with such provisions. *Neues Wiener Journal,* October 25, 1929.

[31] Professor Hans Kelsen held that a demotion of Vienna would in reality force a total revision of the constitution, under different procedure from that contemplated by Schober. Cf. "Die Grundzüge der Verfassungsreform," *Neue Freie Presse,* October 20, 1929. Actually, the proposals of Schober did not go so far; hence the ordinary procedure for partial revision sufficed. Cf. K. W. Heininger, "Wien in der Bundesverfassungsnovelle," *Neue Freie Presse,* October 27, 1929, pp. 7-8.

[32] Cf. Karl Renner, "Der Schlag der daneben ging," *Sozialistische Monatshefte,* vol. 69, pp. 880-884, October, 1929.

[33] A violent critique of the socialists for their acquiescence is contained in "The Austrian Bourgeoisie's Move toward a Fascist Dictatorship and the Tasks of the Proletarian Counter-Attack, *The Communist International,* vol. 6, pp. 957-964, November 1, 1929.

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The last basic reform projected dealt with education. In 1919, when nationalization was the dominant theme in governmental policy, the Christian Socialists turned federalist on educational matters, hoping thereby to safeguard, through provincial enactments, the spiritual and cultural training of youth from the malign influences of socialism. By 1924, Chancellor Seipel injected the issue of nationalization of education into politics, in the hope of extending clerical control over education, and, being rebuffed, disappeared for a time from the political scene. The ardor of the cleric bested the politician in him and made his move at that time premature. In 1929, Schober considered the time propitious and sponsored the addition of education to the administrative functions of the federal government.[34] Quite apart from the merits of the matter from the standpoint of the respective parties, it is obvious that the proposal, along with the assumption by the federal government of the functions of a police system, markedly alters the territorial distribution of powers and breaks still further away from the balance of provincial and federal authority attempted in 1920.

Basically, the reforms, on the whole, give evidence of a backward swing of the pendulum from extreme federalization, as from extreme dilution of executive authority, toward a centralization of functions in a vigorous head of the state. It is in the interest of the corporative, as of the socialist, state to break away from the rigid territorial trammels, the multiplicity of governmental areas which a federal democracy imposes, but it does not appear that a complete departure from the norms established in 1920 is now possible. Socialism is too strong, too deeply intrenched, too temperate in its program, too rapidly growing, to be swept aside in favor of a new variety of Austro-fascism. It is only where party organization is lax, where the constitutional rootage is most shallow, that the corporative state is easily implanted, and in Austria social democracy is not a phantom thing. On the other hand, the play of military forces in Austrian politics is not necessarily at an end. All that can be said at present is that Herr Schober has

[34] The Pan-German party considers federal control of educational policy essential to break down provincialism and maintain a Great-German culture. The *Ausgleichung* movement is very marked here, and is divorced from, and above, religious considerations. "The freedom of the schools," declared a prominent party leader, "is for us a point in our program on which we cannot yield. We are not fighting against socialist schools merely to make possible a clerical school system." *Neue Freie Presse,* November 10, 1929, p. 9, c. 2.

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made an honest and well-meaning endeavor to reconcile widely differing interests within the confines of legality, and that, with a view to stabilizing Austria's international position, he has, for the moment at least, found for the Danubian republic a new basis of constitutional equilibrium intermediate between the extreme federalist position of 1920 and the demands for a future unitary fascist or socialist commonwealth. In so doing, he has brought much water to the mill of the *Ausgleichung* movement. But he has not sacrificed democracy, nor overthrown Parliament, nor laid aside the guarantees of legality and majority rule which for Austria are indissolubly associated with the republican revolution.

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University of California at Los Angeles.

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Mr. William B. Cook, of New York City, has donated the sum of $200,000 to the University of Michigan for a lecture foundation on American political institutions. The first series of lectures will be delivered early in 1930 by the Hon. Charles E. Hughes.

Mr. F. A. Bland, lecturer in public administration at the University of Sydney, delivered a course of lectures at the University of Michigan during the week of November 3.

Mr. George Young, formerly of the British diplomatic service, and recently a lecturer at the Williamstown Institute of Politics, delivered lectures during November at Michigan, Illinois, Wisconsin, and other Middle Western universities.

Professor Joseph P. Harris has completed the field work in connection with his study of election administration and is again in residence at the University of Wisconsin.

Dr. H. W. Dodds, editor of the *National Municipal Review,* has been named chairman of the Mercer county (New Jersey) planning commission, and also a member of the joint legislative committee of New Jersey to study the problems of metropolitan government as it exists in several regions of the state.

Professor Pitman B. Potter, of the University of Wisconsin, has been granted leave of absence for one year, during which time he will conduct a lecture course and a seminar on international organization at the Institut Universitaire des Hautes Études Internationales at Geneva.

Mr. Stuart Lewis, professor of government in the New Jersey Law School and author of various books on government and politics, died in Newark, New Jersey, on November 14.

Miss Nesha Isaacs has resigned as instructor in political science at the University of Cincinnati, and Mr. Roger V. Shumate, of the University of California, has been appointed to succeed her.

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Mr. Thomas C. Clark, of Canton, Ohio, has been appointed to an instructorship in political science at Princeton University.

Mr. Bruce Smith and his staff from the National Institute of Public Administration have completed their survey of the Chicago police department and have lately been engaged in introducing the proposed changes aimed at a reorganization of the force.

Professor John M. Gaus, of the University of Wisconsin, will devote half of his time during the second semester and the whole of the summer to a survey of research in administration, under the auspices of the Social Science Research Council's advisory committee on administration.

In a series of public lectures at Columbia University outlining the progress of the past quarter-century in academic and scientific research, the lecture on the subject of government was delivered, on December 19, by Professor Howard L. McBain.

Dr. John Garland Pollard, professor of Virginia government and constitutional law and dean of the Marshall-Wythe School of Government and Citizenship in the College of William and Mary, was elected governor of Virginia on November 6. Dr. Pollard expects to return to the College when his term as governor expires, February 1, 1934. Dr. James E. Pate has been promoted from associate professor to professor of political science and acting head of the department.

Dr. Charles E. Martin, professor of international law and head of the department of political science at the University of Washington, is traveling in the Orient as Carnegie Endowment visiting professor of international relations, accredited to the universities of Japan and China. He attended the conference of the Institute of Pacific Relations at Kyoto, Japan. After completing a tour of China, he will go to the Philippine Islands and Australasia, and thence to Seattle, where he will arrive at the end of March.

Professor Charles E. Merriam, of the University of Chicago, has been appointed a member of President Hoover's commission to study social changes and trends in the United States. The other members are Professors Wesley C. Mitchell of Columbia University, Howard W. Odum of the University of North Carolina, and W. F. Ogburn of the University of Chicago, and Mr. Shelby Harrison of the Russell

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Sage Foundation. It is expected that the investigation will continue through a period of at least two years.

The survey and audit of the New Jersey state government, which the National Institute of Public Administration was engaged last April to make, is nearing completion. Within a short time, a comprehensive report on audit and finance will be submitted to Governor Larson and the special legislative committee, covering the administrative structure and methods and the condition of the state's finances. Some of the preliminary findings have already been published by newspapers.

The development committee of the board of trustees of Northwestern University has authorized President Scott to announce a six and one-half million dollar program for new law professorships, new law buildings, and the introduction of new methods of law teaching. The primary objective will be a new emphasis upon the connections between law and social science—indeed, as President Scott has put it, to make the lawyer a social scientist.

Political science as a discipline is represented on the Commission on Direction of the Investigation of History and Other Social Studies in the Schools, sponsored by the American Historical Association, by Dr. Charles A. Beard and Professor Charles E. Merriam. Dr. Beard is a member of the advisory committee on objectives, and Professor John A. Fairlie of the advisory committee on public relations.

In memory of Mrs. Clara H. Ueland, an effective pioneer worker in the cause of woman suffrage in Minnesota and the Northwest, a group of friends have established the Clara Ueland Memorial Fellowship for the graduate study of government and citizenship at the University of Minnesota. The fellowship, which is open to recent women graduates of American colleges and universities, and carries a stipend of $500 for the academic year, with exemption from fees, will be available for the first time in 1930-31.

At the 1930 session of the Institute of Statesmanship held at Rollins College January 6-11, a conference group on the making of public opinion was led by Professor Harold R. Bruce, of Dartmouth College; a second, on efforts to control public opinion, by Professor Clyde L. King, of the University of Pennsylvania; a third, on the psychology of public opinion, by Professor H. D. Lasswell, of the University of Chicago;

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and a fourth, on public opinion and the control of political processes, by Professor Lindsay Rogers, of Columbia University. Various lectures and general conferences dealt with the same main theme.

Professor Henry V. Hubbard, of the faculty of landscape architecture at Harvard University, has been named as the first incumbent of the new Charles D. Norton chair of regional planning in that institution. Professor Hubbard is chief editor of *City Planning*, the official magazine of the profession, and a member of the firm of Olmsted Brothers, landscape architects and city planners. The degree of master in city planning, lately authorized by the Harvard Corporation, is the first of its kind to be offered by an American university. Three research projects, as to the height of buildings, the density of residential distribution, and the legal aspects of municipal airports, have been undertaken by the new School of City Planning. These investigations are being carried on, respectively, by Mr. George B. Ford, past president of the American City Planning Institute, Dr. Robert Whittem, present president of the Institute, and Mr. Frank B. Williams, author of *The Law of City Planning and Zoning*.

The fifth session of the Institute of International Relations was held at Mission Inn, Riverside, California, on December 8-13. In addition to numerous lectures and general conferences, there were round tables on Latin American relations, the Orient, modern Russia and the Far East, international law and government, mandates, labor and international policies, resident immigrant problems, and the university program and foreign students. The director of the Institute is Professor Karl C. Leebrick, now of Syracuse University.

The seventh session of the Geneva School of International Studies, Alfred Zimmern, director, will open on July 14 and continue until the meeting of the League of Nations Assembly in September. It will be supplemented, as usual, by a period of lectures and conferences throughout the session of the Assembly. Two series of lectures are carried on simultaneously during the eight-week session, one in English and the other in French; and the general subjects to be treated in successive weeks include the problem of raw materials, European-American economic relations, Islam in the post-war world, the British tradition of government and its extension overseas, and the development of parliamentary institutions in Central Europe. Inquiries may be ad-

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dressed to the School's American office at 218 Madison Avenue, New York City.

Yale University has made plans for an annual conference on international relations to be held at the University for the next three years through the generosity of Mr. Chester D. Pugsley, of Peekskill, N.Y. The leader of the conference will regularly be the visiting professor of political science. To obtain at least two points of view, one other person will be invited to head the conference. Leading authorities and scholars in the field of international affairs will be invited to participate. The program for the first conference will probably be concerned with Anglo-American relations, with particular reference to naval disarmament and the freedom of the seas.

Under the terms of the will of Judge Edwin B. Parker, a member of the Mixed Claims Commission, who died in Washington last November, a graduate school of international affairs, to be affiliated with one of the local educational institutions, will be established in Washington in the near future. Justice Harlan F. Stone is named chairman of the board of supervising trustees. The purpose of the school, as stated in the will, is "to teach high-minded young men of proved character and ability subjects calculated to equip them to render practical service of a high order to the United States government in its foreign relations."

Harvard University has announced the establishment of an Institute of Comparative Law, under the directorship of Dr. Josef Redlich, Fairchild professor of comparative law. The object of the new organization, in addition to giving advanced students an opportunity to study the legal systems of other countries, is to promote investigations bearing upon future legal reforms in the United States. "It is not an accident," says the announcement, "that comparative law, after decades of quiescence, is taking on new life in this country. If we are to proceed wisely in creative juristic activity in the complex society of today, we must study scientifically the legal materials of the whole world. The Harvard Law School library on Continental and South American law is remarkably complete and will offer facilities to the student which will exceed the opportunities offered at any other school."

Completion of plans for a research building to house the new Institute of Law at the Johns Hopkins University for scientific study of the

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effects of laws on society was announced some time ago by President Ames of the University. The building is the gift of an anonymous donor, who provided $450,000 for its erection and maintenance. Although the Institute was established only a year and a half ago, several investigations of widespread social importance, some being carried out in coöperation with outside agencies, are well advanced. One, an investigation into the causes for the delays, expenses, and uncertainty of litigation in our civil courts, will shortly become national in scope. A national advisory committee to aid in the work of the Institute has been formed.

A gift of $400,000 in securities has been made to the Harvard Law School by Mr. Chester D. Pugsley, of Peekskill, N.Y., to provide graduate scholarships in international law for students from all nations of the world. The income of the trust, as stated in the deed, "shall be applied annually for the maintenance of such number of graduate scholarships in international law at the Harvard Law School as there shall be from time to time nations of the world with which the United States of America has diplomatic relations, including, however, as nations, for the purpose hereof, the United States of America, the British self-governing dominions, and India, one of said scholarships to be available for a citizen or subject of each such nation." Sixty scholarships of $400 each will be available at first, and the income which is not used will be allowed to accumulate until the amount of each award has been increased to $2,000. At that time, scholarships for this amount will be given.

The fifth annual report of the Social Science Research Council shows important developments during the past year. Of these, most outstanding is the re-definition of Council objectives. The conviction has been growing for some time that the responsibilities of a national body like the Council are wider than the sifting of research projects and the adding to existing research of what, after all, can at best be a very small stream of Council-financed investigations. At the Hanover conference in August, 1929, the central issue was the re-definition of Council objectives. There was general agreement as to the desirability of viewing the facilitation of social research more widely; it was, in fact, felt that, while still keeping concrete research central, the Council might through a variety of activities actually do more to stimulate effective investigations through a program of planning and coördination, in-

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cluding many supplementary, supporting aspects of the general problem of social research, than if it confined itself more exclusively to planning and financing a series of investigations. The following definition of the scope of Council objectives was accordingly approved, and initial steps were taken to put certain aspects of the comprehensive program into operation: (a) improvement of research organization, through strengthening and coördinating existing research institutions; (b) development of personnel, through recruitment and training, but especially through enhancement of the attractiveness of research careers; (c) enlargement, improvement, and preservation of materials; (d) improvement of research methods; (e) facilitation of the dissemination of materials, methods, and results of investigations; (f) facilitation of research work, through aid given in the prosecution of projects of research by grants-in-aid and other direct and indirect means; and (g) development of fuller public appreciation of the significance of the social sciences. In general, the reorientation of objectives has been in the direction of use of existing university and other institutions for research rather than in that of an *ad hoc* organization for each piece of research; and, in general, of the indirect, rather than the direct, method of stimulation. Other developments have been the addition of a president, in the person of Professor Edwin B. Wilson, and of a permanent secretary, in that of Mr. Robert S. Lynd. Close coöperation has been established with the national government in planning for important work. A new series of fellowships for Southern students has been established through the generosity of the Julius Rosenwald Fund. Two regional committees have been established, one on the Pacific Coast and one in the South, to keep the Council in closer touch with these areas. R. T. C.

A Social Science Research Building dedicated at the University of Chicago on December 16 and 17, 1929, will house the research activities of the departments of philosophy, sociology, anthropology, history, economics, political science, and the school of social service administration. It will also provide accommodations for the six social science journals published by the University of Chicago Press, i.e., the *American Journal of Sociology,* the *Journal of Political Economy,* the *International Journal of Ethics,* the *University Journal of Business,* the *Social Service Review,* and the *Journal of Modern History.* The building was designed and will be used for research purposes exclusively.

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It contains four seminar rooms, one lecture room, an extensive statistical laboratory, an anthropological laboratory, a personality laboratory, and numerous studies and workrooms in which will be prosecuted the various investigations supported by the Local Community Research Committee. The dedication ceremonies were attended by Sir William Beveridge, director of the London School of Economics and Political Science, Professor Albrecht Mendelssohn-Bartholdy, of the University of Hamburg, Professor Célestin Bouglé of the Sorbonne, and representatives of seven university social science councils. Papers were read by the foreign delegates; also by Professor Wesley C. Mitchell, of Columbia University, on "The Function of Research in the Social Sciences;" Dr. John C. Merriam, president of the Carnegie Institution, on "Significance of the Border Area between Natural and Social Sciences;" Dr. Milton C. Winternitz, dean of the Yale Medical School, on "Research in the Medical and Social Sciences;" Dr. Harold G. Moulton, president of the Brookings Institution, on "Coöperation in Social Science Research;" Professor Franz Boas, Columbia University, on "Some Problems of Methodology in the Social Sciences;" Mr. Beardsley Ruml, director of the Spelman Fund, on "Recent Trends in the Social Sciences;" and Professor C. Judson Herrick, of the University of Chicago, on "The Scientific Study of Man and the Humanities." Dedication ceremonies were concluded at the Autumn Convocation, at which the address was given by Dr. Edwin B. Wilson, president of the Social Science Research Council.

Mr. Luther Gulick, of the National Institute of Public Administration, has been retained by the New York State Commission on Old Age Security to organize and direct its research work. This commission was appointed jointly by the legislature and the governor at the close of the 1929 session of the legislature; and the act providing for it requires it not only to study the problem of old age pensions, but to deal with the institutional provision for the aged, particularly through district infirmaries. The research work of the Commission has been organized under the following heads: (1) Review of legislation, including an analysis of American and European old age assistance legislation, the history of the New York State poor law, and an examination of the pension surveys of state commissions, especially in Pennsylvania, Massachusetts, and California. (2) An examination of public and private retirement systems, including national, state, municipal, and

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industrial pension plans covering citizens of the state of New York. (3) A study of self-preservation for old age security through insurance, savings, investments, and family relationships. (4) A survey of institutional provision for the aged, particularly through public homes and hospitals and through private homes. (5) An examination of public and private relief to the aged in their homes. As a part of this study, special surveys have been made, particularly in the cities of the state, to determine the number of individuals and the amount spent for outdoor relief through all organized charitable groups, including denominational and other charities. Special attention is being devoted to the aged who are receiving assistance through soldiers' relief, blind relief, mothers' pensions, and through peddlers' licenses in New York City. (6) A special census of the aged to determine their economic and social status, following the general schedule used in the famous census of the aged in Massachusetts, is being made in four townships in Otsego county, which has been selected as a sample rural community. Unlike the Massachusetts study and the National Civic Federation study, this census of the aged is based, not on voters' lists, or a sampling process, but on visits to all of the homes in the geographic areas selected. It is thus a true census. Similar studies on the basis of selected blocks are being made in New York City, Buffalo, Geneva, Canton, Schenectady, Ithaca, Saratoga Springs, Troy, and Aurora by advanced students of colleges and universities, under the supervision of professors of economics, sociology, and government. It will be the purpose of this study to determine how many individuals there are in the sample rural and urban communities selected who may qualify for old age assistance as to age, as to means, and as to family connections. (7) With the aid of a special appropriation from the Spelman Fund of New York, the Commission is undertaking a survey of the age distribution of those gainfully employed in the state of New York. The Associated Industries of New York State is coöperating in this part of the project. The study will include likewise an age distribution of new employees and an age distribution of separations, the object being to furnish factual information with regard to the age factor in industry. A special effort will be made to classify the material by new industries and old industries, by hand industries and highly mechanized industries, and by light manufacture and heavy manufacture. It is expected that the Commission will report to the legislature early in 1930.

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The University of California has recently announced plans for the expansion of its program in graduate training and research in public administration, for which purpose there has been set aside for the first six years (in addition to existing expenditures) a minimum sum of $262,000, of which $182,000 has been contributed by the Rockefeller Foundation and $80,000 by the University of California. It is proposed "to develop and expand the facilities at the University of California so that there may be applied to the important problems of government administration the organized intellectual resources of the University, coördinated into carefully considered programs of library development, investigation, research, publication, and instruction, in order to understand and make known to students, officials, and the public the underlying principles and practices of government administration which seem to accomplish the most efficient and desirable results; and best to prepare future government officials for effective public service." The announcement states the following objectives: (1) To collect, classify, and make available the existing materials and information which are required for an understanding of the varied work of government; to publish bibliographies, guides, and manuals, so that faculty, students, and officials may compare, correlate, and interpret existing knowledge pertaining to public administration. (2) To develop systematically through the various existing departments of the University a continuous and coördinated program of comparative field investigations concerning the administrative structure for the performance of government work; the actual practices and methods used; and the interrelations between different governmental units. (3) To bring about coördination of research among departments interested in special government fields. (4) To establish and conduct carefully planned coöperative programs of research in those fields of public administration not now fully developed by the University: such as, the administration of criminal justice, the administration of civil justice, various phases of city and regional planning, and police administration. (5) To encourage, develop, and maintain research concerning the fundamental principles of public administration and its relationship to the legislative, judicial, and executive branches of government. (6) To coöperate with the civic organizations, bureaus of government research, leagues of municipalities, public officials, and individuals in securing or giving information, making investigations, and conducting research. (7) To publish the results of investigation

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and research in public administration. (8) To prepare teaching material based upon investigations and research. (9) To establish a coordinated graduate curriculum of upper division and graduate instruction, so that mature specialists in fields which are found in both governmental and private work may obtain a knowledge of the peculiarities of the specialty as applied to government, its relationship to other governmental functions, and to the supervisory and controlling agencies of general administrative structure. (10) To introduce new courses in fields of public administration not fully covered by existing instruction. (11) To offer upper division and graduate instruction in those aspects of public administration which are applicable to all government organization units regardless of the particular function each may perform. (12) To carry on a continuous study of the opportunities and requirements of the public service, so that educational problems in training for government administration may be solved intelligently, and that properly prepared students may find suitable positions. In addition to the graduate work, the plan includes important coöperative arrangements with, and additional financial assistance by, governmental agencies, detailed announcements concerning which will be made in the near future. Seven special research projects are contemplated, including: (a) a study of the interrelations of the communities comprising the San Francisco region; (b) the administrative relationships between federal, state, and local governments; (c) personnel problems; (d) legislative drafting; (e) the administration of criminal justice in the state of California; (f) the annual publication of critical annotated guides to the literature of state and federal administration. The training program will involve the coördination of approximately one hundred existing courses which now deal with various phases of public administration, and the introduction of new courses not at present adequately covered. The project was planned and will be directed by Professor Samuel C. May, of the department of political science. Factors which should contribute to the success of the undertaking are the unusual library facilities of the Bureau of Public Administration, of which Professor May is director, the large number of graduate students now working in this field, and the coöperative attitude of state and local officials.

Annual Meeting of the American Political Science Association. The twenty-fifth annual meeting of the American Political Science

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Association was held at the Jung Hotel, New Orleans, December 27, 28, and 30, 1929. The registration was 127, as compared with 235 in Chicago in 1928, 292 in Washington in 1927, and 157 in St. Louis in 1926. The oustanding event of the meeting was the testimonial luncheon given at "La Louisiane" on December 28 in honor of President-Emeritus Frank J. Goodnow of the Johns Hopkins University, the first president of the Association. The program, in full, was as follows:

FRIDAY, DECEMBER 27

10:00 A.M. **General Session on Impeachments.**
Presiding Officer: William Anderson, University of Minnesota.
The Impeachment of Governor Long of Louisiana.
N. F. Baker, Tulane University.
Impeachment in Texas.
Frank M. Stewart, University of Texas.
Impeachments of Oklahoma Governors, 1924 and 1929.
Cortez Ewing, University of Oklahoma.

12:30 P.M. **Subscription Luncheon.**
Presiding Officer: John A. Fairlie, University of Illinois.
Do Public Service Commissions Adequately Protect the Public Interest?
W. E. Mosher, Syracuse University

2:30 P.M. **Round Table Meetings.**

1. *County Government.*
C. M. Kneier, University of Nebraska, Director, Friday and Saturday.
Friday: *The Position of the County in Our Governmental System.*.
Discussion led by: F. G. Bates, Indiana University; I. L. Pollock, University of Iowa; F. G. Crawford, Syracuse University; W. C. Murphy, West Virginia University; W. W. Mather, Chaffey Junior College, California.
Saturday: *Changes in the Structure and Organization of County Government.*
Discussion led by: James W. Errant, University of Oklahoma; Kirk H. Porter, University of Iowa; R. L. Carleton, Louisiana State University.
Monday: *City-County Consolidation.*
Thomas H. Reed, University of Michigan, Director.
Discussion led by: Isidor Loeb, Washington University, "St. Louis and St. Louis County;" A. W. Bromage, University of Michigan, "Boston and Suffolk County;" James Hart, Johns Hopkins University, "The Two Baltimores;" Rowland A. Egger, Princeton University, "The Federated Plan of Consolidation."

2. *National and State Administration.*
L. M. Short, University of Missouri, Director.
Friday: *Discussion led by*: W. F. Willoughby, The Brookings Insti-

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tution, "Organization for Financial Control;" Charles P. White, University of Tennessee, "Certain Phases of State Fiscal Administration."

Saturday: *Discussion led by*: Harvey Walker, Ohio State University, "Theory and Practice in State Administrative Organization;" James Hart, Johns Hopkins University, "Law and Policy of Executive Tenure under the Constitution."

Monday: *Discussion led by*: S. C. May, University of California, "Types of Research in Public Administration."

3. *Pressure Groups.*

Friday: "Pressure Groups in Legislation." E. B. Logan, University of Pennsylvania, Director. *Discussion led by*: P. H. Odegard, Williams College.

Saturday: "Pressure Groups in Primaries and Elections." E. P. Herring, Harvard University, Director. *Discoussion led by*: E. B. Logan, University of Pennsylvania.

Monday: "Pressure Groups and the Executive." P. H. Odegard, Williams College, Director. *Discussion led by*: E. P. Herring, Harvard University.

4. *Types of Political Personalities.*

Harold D. Lasswell, University of Chicago, Director.

Friday: *The Type Concept.*

Discussion led by: F. H. Allport, Syracuse University, "The Psychological Viewpoint;" Carl J. Friedrich, Harvard University, "The Cultural Viewpoint."

Saturday: *Research Reports.*

Discussion led by: George B. Vetter, New York University, "Certain Typical and Atypical Personalities;" J. T. Salter, University of Oklahoma, "Division and Ward Leaders in Philadelphia."

Monday: *Reports and Projects.*

Discussion led by: Max Handman, University of Texas, "Psychology of a Nationalist Leader;" Donald Slesinger, Yale University, "Studying the Psychology of Judges;" W. Brooke Graves, Temple University, "Types of Appeals in Presidential Campaigns."

5. *Public Personnel Policies.*

W. E. Mosher, Syracuse University, Director.

Friday: *Discussion led by*: W. E. Mosher, Syracuse University, "Adequacy of the Civil Service Commission as the Personnel Agency of the Government."

Saturday: *Discussion led by:* H. Eliot Kaplan, National Civil Service Reform League, "Defense of the Civil Service Commission;" James E. Errant, University of Oklahoma.

Monday: *Discussion led by*: Frank M. Stewart, University of Texas, "Suggestions for a New Type of Agency."

6. *Current Trends in Political and Legal Thought.*

W. J. Shepard, Ohio State University, Director.

Friday: "The Decadence of the Democratic Doctrine." *Discussion*

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led by: John Dickinson, University of Pennsylvania Law School; William Anderson, University of Minnesota; John M. Gaus, University of Wisconsin.

Saturday: "Modern Conceptions of Law." *Discussion led by*: Karl N. Llewellyn, Columbia University Law School; Norman Wilde, University of Minnesota.

Monday: "The Pragmatic Approach to Political Science." *Discussion led by*: George H. Sabine, Ohio State University; R. K. Gooch, University of Virginia; Thomas Reed Powell, Harvard Law School.

7. *Legislatures and Legislation.*

A. R. Hatton, Northwestern University, Director.

Friday, December 27: *The Ills of Legislatures.*

Saturday, December 28: *Remedies for Legislative Defects.*

Monday, December 30: *Remedies for Legislative Defects.*

Discussion leaders: Thomas S. Barclay, Stanford University; DeWitt Billman, Secretary, Illinois Legislative Reference Bureau; H. W. Dodds, Princeton University; Cortez Ewing, University of Oklahoma; George H. Hallett, Secretary, Proportional Representation League; Frank E. Horack, State University of Iowa; Henry W. Toll, Member Colorado State Senate, President American Legislators Association; Harvey Walker, Ohio State University.

4:00 P.M. **Meeting of Executive Council and Board of Editors**

8:15 P.M. **Presidential Addresses.**

Joint Meeting with the American Association for Labor Legislation.

Presiding Officer: Dean M. A. Aldrich, Tulane University.

John A. Fairlie, President, American Political Science Association.

Thomas I. Parkinson, President, American Association for Labor Legislation.

SATURDAY, DECEMBER 28

10:30 A.M. **Round Table Meetings.** As indicated for preceding day.

12:30 P.M. **Subscription Luncheon.**

Presiding Officer: John A. Fairlie, University of Illinois.

Address: Frank J. Goodnow, Johns Hopkins University.

A tribute to President Goodnow was read by the Secretary-Treasurer of the Association on behalf of Dr. Charles A. Beard, and informal remarks were made by Ernst Freund, University of Chicago, and Lindsay Rogers, Columbia University.

2:00 P.M. **General Session on Foreign Governments.**

Presiding Officer: Frederic A. Ogg, University of Wisconsin.

British Party Organization.

James K. Pollock, Jr., University of Michigan.

The New Fascisti Council.

H. R. Spencer, Ohio State University.

Some Phases of Judicial Review of Legislation in Foreign Countries.

C. G. Haines, University of California.

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4:00 P.M. **Annual Business Meeting of the Association.**
Presiding Officer: John A. Fairlie, University of Illinois. Annual Report of the Secretary-Treasurer and of the Managing Editor of the *American Political Science Review*. Election of Officers for 1930.

6:30 P.M. **Joint Subscription Dinner with the American Association for Labor Legislation.**
Presiding Officer: John A. Lapp, Marquette University.
The Annals of Law—A Storehouse of Material for Inquiry in the Social Studies.
Walton H. Hamilton, Yale University.

8:30 P.M. **General Session on International Relations.**
Presiding Officer: A. R. Hatton, Northwestern University.
Congress, the Department of State, and the Foreign Service.
Irvin Stewart, The American University.
Recent Developments in the Policy of the United States with Respect to Latin America.
J. W. Garner, University of Illinois.

MONDAY, DECEMBER 30

9:30 A.M. **Joint Meeting with the Association of American Law Schools.**
Judicial Organization with Especial Reference to Appellate Courts.
Presiding Officer: John A. Fairlie, University of Illinois.
The Functions of Courts of Review.
Walter F. Dodd, Yale University Law School.
Intermediate Courts of Review.
Edson R. Sunderland, University of Michigan Law School.
Discussion led by: Felix Frankfurter, Harvard University Law School; Judge Rufus E. Foster, U. S. Circuit Court of Appeals, Fifth Circuit; Hon. Monte E. Lemann, New Orleans; Rufus C. Harris, Tulane University Law School; Silas H. Harris, Ohio State University Law School.

12:30 P.M. **Subscription Luncheon.**
Presiding Officer: B. F. Shambaugh, State University of Iowa.
Police Administration.
August Vollmer, University of Chicago.

2:30 P.M. **Round Table Meetings.**
As indicated for first day.

The Secretary-Treasurer reported a net increase of 103 in the membership of the Association during the year, the total membership being 1,904, of whom 77 were associate members, 49 life members, 20 sustaining members, and 590 libraries.

The balance sheet, operating account, and trust fund account for the fiscal year December 15, 1928, to December 15, 1929, were presented by the Secretary-Treasurer, as follows:

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BALANCE SHEET

December 15, 1929

Assets

Cash on Hand—Operating Fund:		
Cash in Bank—Checking Account	$ 590.40	
Petty Cash	.20	
Savings Account	700.00	
		$ 1,290.60
Trust Fund:		
Savings Account	$ 765.60	
U. S. Treasury Bonds	1,535.29	
		$2,300.89
Accounts Receivable—Members' Dues:		
One Year Unpaid	$ 839.50	
Two Years Unpaid	612.00	
Life Memberships	230.00	
		$1,681.50
Accounts Receivable—Index, Publications, etc.		127.00
Total Assets		$ 5,399.99

Liabilities and Surplus

Dues Advanced by Members	$ 1,407.88
Surplus of the Association	3,992.11
Total Liabilities and Surplus	$ 5,399.99

Operating Fund

Cash Receipts and Disbursements
For the Year Ending December 15, 1929

Receipts—1929:		
Dues Collected from Members	$7,762.38	
Special Contributions	165.12	
Sale of Publications	241.10	
Advertising	462.73	
Sale of Index	52.00	
Sale of Mailing List	38.00	
Special Reprints	12.35	
Miscellaneous	1.45	
Total Receipts		$ 8,735.13
Cash on Hand—December 15, 1928		1,768.20
Total Cash Available		$10,503.33

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Disbursements in 1929:

Review—Printing	$5,111.27	
Review—Reprints, Postage, etc.	381.40	
Managing Editor—Miscellaneous Expense	657.25	
Managing Editor—Traveling Expense	47.50	
Honoraria to Contributors	477.03	
Honorarium to Managing Editor	600.00	
Secretary and Treasurer—Clerical and Stenographic	837.50	
Secretary and Treasurer—Stationery, Printing, and Postage	489.94	
Secretary and Treasurer—Traveling Expense	117.98	
Secretary and Treasurer—Miscellaneous Expense	54.51	
Dues—American Council of Learned Societies	87.35	
Index Cost	2.17	
Equipment	42.60	
Annual Meeting Expense	260.78	
Auditing	34.50	
Miscellaneous	10.95	
Total Disbursements		9,212.73
Cash on Hand—December 15, 1929		$ 1,290.60

Consisting of:

Cash in Savings Account	$ 700.00
Cash in Checking Account	590.40
Petty Cash	.20
	$ 1,290.60

Trust Fund

Cash Receipts and Disbursements
For the Year Ending December 15, 1929

Receipts—1929:

Interest on Savings Account	$ 60.55	
Interest on Bonds	50.61	
Collections on Life Memberships	95.00	
Total Receipts		$ 206.16
Cash on Hand in Fund—December 15, 1928		559.44
Cash on Hand in Fund—December 15, 1929		765.60

The operating estimates for 1930 called for a balance and receipts of $11,100.60, expenditures of $9,793.00, and a balance on December 15, 1930, of $1,307.60.

At the annual business meeting the following officers were elected for the year 1930: president, Benjamin F. Shambaugh, State University

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of Iowa; first vice-president, Chester Lloyd Jones, University of Wisconsin; second vice-president, Robert C. Brooks, Swarthmore College; third vice-president, Thomas H. Reed, University of Michigan; secretary-treasurer, Clyde L. King, University of Pennsylvania; members of the Executive Council for the term ending December 31, 1932: William S. Carpenter, Princeton University; Frederic H. Guild, University of Kansas; Charles E. Hill, George Washington University; Raymond Moley, Columbia University; Lent D. Upson, Detroit Bureau of Governmental Research.

Upon the nomination of the Managing Editor, the Board of Editors of the *American Political Science Review* was continued unchanged except that the resignation of Professor John A. Fairlie was accepted and his place was filled by the election of Professor Walter F. Dodd. In announcing the change, the Managing Editor stated that Professor Fairlie had offered to withdraw from the Board upon a number of previous occasions, and that his resignation had been accepted only when his position as a former president of the Association would make it possible for him to continue to participate in the Executive Council.

At the meeting of the Executive Council it was voted to refer to the Committee on Policy the question as to the desirability of amending the constitution of the Association so as to bring it into accord with the practice of inviting the members of the Board of Editors of the *Review,* and also former presidents, to participate in the meetings of the Executive Council; and to refer to the same committee the question of the advisability of establishing relations between the American Political Science Association and other organizations in the field of political science which have sprung up in some of the states and sections of the country.

The following resolution was adopted at the annual business meeting of the Association:

Resolved: That it is the judgment of the American Political Science Association that it is highly desirable that the universities and colleges assume at least a part of the transportation expense incurred by members of their instructional staffs in attending meetings of learned societies within their respective professional fields; and that this policy be not made contingent upon holding office in the society or participating in the programs of its meetings.

Moved: That a committee of three, including the secretary, be appointed to conduct an inquiry through the departments of political science in universities and colleges with respect to the payment of transportation expenses to professional meetings, and the extent to which this question has been considered by faculties and administrative officials, and to report the results.

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Also the following resolution:

Whereas the American Political Science Association, with other societies having a professional interest in the same object, last year made representations to the Department of State respecting the need for adequate provision for the publication of current documentary and other material dealing with the conduct of American foreign relations: and

Whereas the Department of State, under the direction of the Historical Adviser, has now inaugurated a series of "Publications of the Department of State"—consisting of weekly press releases, the monthly Bulletin of Treaty Information, the monthly Diplomatic List, the quarterly Foreign Service List, the occasional Latin American, European, and other sub-series, the annual Register of the Department of State and Papers Relating to Foreign Relations of the United States, etc.: and

Whereas the entire series may be subscribed for by placing a deposit account of about $10.00 per year with the Superintendent of Documents, Government Printing Office, while sub-series may be subscribed for at fixed sums;

Therefore be it resolved: That the American Political Science Association congratulates the Department of State upon inaugurating a current publication program calculated to provide teachers, practitioners, students, and others with accurate information as to present foreign relations of the United States;

That the Association urges its membership to take full advantage of these new and official aids to teaching and citizenship; and

That the Association expresses the opinion that it is desirable that the Superintendent of Documents and the Public Printer organize the printing and distribution of the publications of the Department of State in such a manner that speedy service to subscribers may be given, thereby encouraging both an increase in the number of subscriptions and the confidence of subscribers that the publications may be depended upon as a regular source of essential information.

Resolutions were adopted also thanking Professor M. J. White, of Tulane University, for the thoroughly efficient manner in which he had planned and carried through the local arrangements for the meeting and for the comfort and entertainment of those in attendance; and thanking Professor Clyde L. King, chairman, and the other members of the program committee, for the excellent program which they had arranged.

J. R. HAYDEN, *Secretary.*

It is appropriate to add that a vote of appreciation was also tendered Professor Hayden for his faithful and efficient discharge of the duties of secretary-treasurer during the past four years.

Managing Editor.

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BOOK REVIEWS AND NOTICES

EDITED BY A. C. HANFORD
Harvard University

The New Despotism. By LORD HEWART OF BURY, Lord Chief Justice of England. (New York: The Cosmopolitan Book Corporation. 1929. Pp. 311.)

Administrative Law. By FREDERICK JOHN PORT. With a Foreword by Right Honourable Lord Justice Sankey. (New York: Longmans, Green and Co. 1929. Pp. xxii, 374.)

"What's the matter? What's the matter?" chirps the Lord Chief Justice of England at the commencement of his new book; and it turns out that the matter is the peril of bureaucracy which impends over the British Isles because of the exemption of administrative agencies from proper judicial control. Lord Hewart adroitly concentrates his initial attack on certain particularly outrageous types of clauses which have found their way into recent British statutes. One such clause, to which he calls attention in his opening paragraph, gives authority to the minister to make rules and orders for the administration of an act, and then goes on to provide that "any such order may modify the provisions of this act so far as may appear to the minister necessary or expedient for carrying the order into effect" (Unemployment Insurance Act of 1920; Rating and Valuation Act of 1925). Such a clause obviously ousts completely the jurisdiction of the courts to inquire whether an administrative order is *ultra vires* under the enabling statute, since the order may validly alter the statute.

Another type of clause vests absolute discretion in the minister to make rules or orders "as he shall think fit," without requiring him to conform his judgment of fitness to any standard laid down in the statute (Roads Act of 1920). Clauses of a third type invest rules made by the minister with "the same effect as if enacted in this act" (Electricity Supply Act of 1919). A fourth type provides that confirmation of an order by the minister "shall be conclusive evidence that the requirements of this act have been complied with, and that the order has been duly made and is within the powers of this act." A clause of this type was before the courts in *Ex parte* Ringer (25 *Times Law Reports,*

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718), where it was held that "the section gives to an order made by a public department the absolute finality of an act of Parliament . . . . and the court had no power to interfere with the decision of the department." These results are possible because, in the absence of constitutional limitations on the legislative supremacy of Parliament, the courts are not in a position to insist, as they do in the United States, that a delegation of power to administrative officials must prescribe at least the general standard by which the officials are to act, so that their action may be held void if in the opinion of the court it transgresses the prescribed standard. In other words, the particular bureaucratic dangers threatened by such clauses are not ones that in this country we have to fear.

Lord Hewart admits that "it is tolerably obvious that the system of delegation by Parliament of powers of legislation is within certain limits necessary, at least as regards matters of detail. . . . . It may be conceded that the system, if not abused, and subject to proper safeguards, may have its uses. It is the abuse of the system that calls for criticisms, and the greatest abuse . . . . is the ousting of the jurisdiction of the courts" (pp. 85-86). Unfortunately, his Lordship's criticisms do not always keep within the limits thus judiciously laid down. Running through the book, and rising at times to an emotional pitch, is a spirit of distrust toward the system of administrative control and all its works, as distinguished from the older "rule of law," under which all laws were supposedly made by the will of the nation in Parliament, and left to be applied to particular cases by an independent judiciary insulated against political influences. Lord Hewart smells conspiracy about him—the conspiracy of Whitehall bureaucrats and "experts" plotting to foist a New Despotism on a land whose greatest pride, he tells us in words borrowed from Kipling, has always been

> "Ancient right unnoticed as the breath we draw—
> Leave to live by no man's leave, underneath the Law."

"For whose benefit," asks his Lordship, "and at whose request, is this mountain of statutes, and this still greater mountain of rules, orders, and regulations built up from year to year? The conclusion seems to be unavoidable that the present movement is in a vicious circle. The greater the army of officials, the greater becomes the mass of parliamentary and departmental legislation, the greater becomes the army of officials, and so on, *ad infinitum*. Is not that, at any rate, a mood

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that should be bridled? What is needed is to reassert, in grim earnest, the sovereignty of Parliament and the rule of law" (p. 156). "The conclusion is irresistible," he says, that this vicious circle "is manifestly the offspring of a well-thought-out plan to clothe the Department with despotic powers" (p. 159). The Lord Chief Justice has an old-fashioned downright suspicion of the argument that "it is necessary or desirable for Parliament to attempt the many-sided activity which is put forward as a pretext;" and he quotes with approval the pronouncement of Mr. Justice Eve that "it is alarming to contemplate the increasing scope of legislative interference in these matters which in the past had been considered the private affairs of the citizen. . . . . Individual liberty and corporate activities would find themselves hampered by unnecessary restraints" (p. 166). To this last statement a footnote in the manner of Gibbon might refer to the Hatry scandal, now in the public eye.

The emotional momentum of his Lordship's reasoning thus carries him, and is almost certain to carry uninformed readers, farther than his argument warrants, and farther than is necessary to make out the case which he has a good chance of sustaining—namely, that the system of administrative regulation, as it now exists in England, has been pushed to extremes, and ought to be brought under closer control by Parliament, on the one hand, and by the courts, acting with the leave of Parliament, on the other. As to the first point, Lord Hewart would have Parliament exercise closer scrutiny over departmental regulations before they become effective than is generally provided for under existing practices as to the laying of such regulations before Parliament. He objects to the accuracy of the statement that "usually Parliament retains some control by a provision in the act that the rules drawn up by the executive shall be laid before Parliament in draft for a certain number of days, and become operative only in the absence of an address from either House against the draft or any part thereof." "Such a provision," he says, "is probably not to be found in one per cent of the statutes conferring legislative powers, and in the great majority of such statutes there is no provision for parliamentary control of any sort" (pp. 94-95).

Lord Hewart objects to the making of departmental regulations "behind the back of Parliament" and proposes that the Rules Publication Act be amended "so as to secure a real and effective parliamentary supervision over all rules and orders" (p. 155). He wisely does not

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labor this point; for if direct parliamentary action were to be required on each piece of subordinate legislation to give it validity, there would be slight advantage in having delegated legislation at all. He is on firmer ground when he insists on the elimination from statutes of such clauses as those outlined in the first paragraph of this review; but his contention that the courts should have a broad power to pass on the "reasonableness" of departmental regulations seems to go unnecessarily beyond the American practice of allowing them merely to test such regulations by the standard prescribed in the statute. He opposes the practice of allowing the departments to compromise the judiciary and foreclose legal questions by securing in advance advisory opinions on moot cases; and he has something, though not so much as one might expect, to say about the issue raised by the Arlidge case (L.R. [1915] A.C. 120), i.e., the necessity of fair hearing in quasi-judicial administrative proceedings. In this connection, it is interesting to note that there was nothing in any statute which dictated the result reached in the Arlidge case. The courts had an opportunity to protect individual rights against star-chamber administrative methods, and failed to use it. Must we suppose them parties to the conspiracy which the Lord Chief Justice is tracking down?

Lord Hewart's book is a piece of advocacy; Dr. Port's essay is an attempt at exposition of the developments which have so roused the Chief Justice. In a volume of 374 pages, unduly bulky because of the thickness of the paper, he has undertaken to define administrative law, to give a sketch of its background from William the Conqueror to 1832, to discuss the problems of the separation and interrelation of governmental functions, to summarize the present British practices of subordinate legislation and quasi-judicial administrative action, and to report on the present position of administrative law in the United States and in France. The result of this breadth of canvas is that the two chapters on delegated legislation and quasi-judicial administrative action in present-day Britain, which form the meat of the book, are necessarily mere sketches, made by exhibiting a number of samples.

It is hard to tell whether the samples are meant to exhaust the typical situations or are chosen more or less at random. Unlike Lord Hewart, Dr. Port seems to feel that existing provisions for laying administrative regulations before Parliament are sufficient; but he agrees with his Lordship in regarding as unfortunate the curtailment of the power of the courts to decide whether or not delegated legislation is *ultra vires,*

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"thereby annulling the most powerful guarantee of strict legality and impartiality" (p. 109). Dr. Port gives more consideration than Lord Hewart to quasi-judicial administrative action. Here his principal criticisms are directed against the doctrine of the Arlidge case, and against the denial of judicial review on questions of law, illustrated in such cases as Board of Education v. Rice ([1911] A.C. 179). He suggests, however, that appeals on points of law should go to a special tribunal, consisting in part of administrative experts, which should apparently also have jurisdiction to review mixed questions of law and fact (p. 349).

It is interesting to note that the American development of administrative law has, either by statute or by decision, avoided precisely the results which both Lord Hewart and Dr. Port find most open to criticism in the current British practice.

JOHN DICKINSON.

University of Pennsylvania Law School.

Making Fascists. By HERBERT W. SCHNEIDER and SHEPARD B. CLOUGH. (Chicago: University of Chicago Press. 1929. Pp. xv, 211.)

The fifth volume of Professor Merriam's "Studies in the Making of Citizens," like its predecessors, is a product of competence. Before this project was placed in their hands, Mr. Schneider had already given a demonstration of his capacity in his book on *Making the Fascist State,* and Mr. Clough had long been at work on nationalism in Belgium. The former is a philosopher (who fain would not be?) and the latter is an historian (a philosopher working in time); hence the combination is excellent. Of course, formalists in political science may miss some categories in the present volume, and complain with some justification, perhaps, but the intrusion of intellectual forces from a new angle is always a gain in the eyes of those who are expecting more light to break in on the canon handed down by the Fathers.

In its very structure the volume reveals penetration. The first part deals with group attitudes: economic groups, regional and racial differences, international relations, and Catholicism. The second part covers the techniques of civic training: education, military training, the bureaucracy, the Fascist party, the Fascist press, patriotic organizations, symbolism, and traditions. It is not here a case of Rousseau's abstract men, free and equal, one hundred per cent pure and fire-proof,

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but of group men, with group interests, traditions, and proclivities. Nor is it a question of public opinion arising freely out of the ferment of free debate, but of stereotypes imposed by dominant organizations on the mind of the masses.

The spirit of the pageant is disclosed in a single passage from a Fascist school-book: "As there is one official religion of the state, the Catholic, so today there must be only one political faith, Fascism, which is synonymous with the Italian nation. As the Catholic must have a blind belief in the Catholic faith and obey the Catholic Church blindly, so the perfect Fascist must believe absolutely in the principles of Fascism and obey the hierarchical heads to whom he owes allegiance without reserve." Perfection could not be more perfect.

But, as our authors show, in application there are difficulties, and, though frozen under balmy skies, Italy moves. There is friction at the joints where classes are forcibly integrated. Fascism and Catholicism, though nominally at peace, are in perpetual strife in their efforts to get a grip on Italy's social and intellectual life. The former, a nationalist cult, demands attitudes and convictions at war with the fundamentals of the Church Universal; the latter, though essentially Italian, has traditions and ideals not exactly in accord with the creed of imperial, conquering, immortal, secular Rome. Moreover, as our authors make clear, the clamor of Fascism shifts from the right to the left and from the left to the right in spite of its "eternal truth," so that it requires a great deal of mental flexibility for the faithful to keep up with the hierarchy. And that raises an interesting question: Can the Italian mind be kept mobile enough to follow the zig-zags of Fascism without acquiring a momentum that might carry it out of the perfect balance? Schneider and Clough suggest that there is some humor as well as political science in the situation.

CHARLES A. BEARD.

New Milford, Connecticut.

La Civilità Fascista illustrata nella dottrina e nelle opere. Published under direction of GIUSEPPE LUIGI POMBA. (Turin: Unione Tipografico-Editrice Torinese. 1928. Pp. 688.)

Storia del Fascismo. By GIORGIO PINI AND FEDERICO BRESADOLA. (Rome: Libreria del Littorio. 1928. Pp. viii, 515.)

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A Survey of Fascism. The Year Book of the International Center of Fascist Studies. Volume I. (London: Ernest Benn Limited. 1928. Pp. 241.)

Unfortunately, we mortal beings are much less anxious to see ourselves as others see us than we are to make sure that others see us as we see ourselves. Few of us are capable of minimizing the importance of our actions in writing our autobiographies, and not one of us would ever select other than the most flattering proof sent to us by our photographer. We are an egotistic lot; we always try to look our best when appearing in public. The student of history comes very early in his career to realize this feature of human nature and to make allowance for it. He is thus able to make use of autobiographies, self-portraits, and confessions, and finds in them source material of the first order.

The three books under consideration are Fascist self-portraits. They are all written by Fascists. But one should not condemn them *à priori* for that; one should simply make allowance for it. This having been done, one will find that each volume contains information which will improve one's knowledge of the Fascist régime.

By far the best of the three books is *Civilità Fascista.* It is a co-operative work. Among the contributors to it are Marinetti, Alfredo Rocco, Giovanni Gentile, Gioacchino Volpe, Edmonds Rossoni, Giuseppe Bottai, and Italo Balbo. The value of the articles varies greatly. The section devoted to the history of Fascism is particularly weak. So much space is devoted to "interpretation" that the facts do not stand out in bold relief; or, when they do stand out, they deal with unimportant details concerning events such as the March on Rome (pp. 82 ff.). The section in which the theory of Fascism is treated is better. The article by Gentile is a good statement of his position in the movement, although he gives one to believe that his philosophy is the philosophy of Fascism. Marinetti, on the other hand, gives the impression that *Futurismo* dominates the Régime.

The best part of *Civilità Fascista* is the section which deals with *Le Opere,* the work, of Fascism. Without exception, these articles are written by competent persons in the various fields of Fascist endeavor. They treat industry, syndicalism, agriculture, *Dopolavoro* (the workers' social organization), schools, the army, the Fascist militia, youth organizations, the press, etc. They are laudatory, to be sure, but they contain real information concerning what Fascism is doing. If

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one desires still more information than they present, one will find at the back of the book an excellent bibliography to guide one's further reading.

The Survey of Fascism attempts to cover on a small scale the material treated in *Civilità Fascista.* The attempt is, however, a miserable failure. One would expect a "yearbook" of this nature to contain source material covering the history of Fascism. As a matter of fact, the book contains very little information, and what it does contain is so mixed with blatant propaganda that it is of little practical value. The best articles in the book are the following: G. Volpe, "The Birth and Establishment of Fascism in Italy," which is very similar to the one he wrote for *Civilità Fascista;* J. S. Barnes, "The Reform of the State in Italy;" and E. Amicucci, "The Liberty of the Press."

In the last place, we come to a consideration of the *Storia del Fascismo* by Pini and Bresadola. Pini is the editor of *L'Assalto,* a small *journal de lutte* of Bologna; Bresadola is his close friend and aid. As one might expect, the book is written in the spirit of the *arditi.* It traces the political history of Italy from the fall of Crispi to the Fascist Labor Charter. An attempt is made to show that a spirit for a new Italy has been steadily growing, and that this spirit has been exemplified by pre-war imperialism, by *interventismo,* by the birth of the Fascist party, and by Fascist rule. If one takes cognizance of the writer's bias, one will find the book an illuminating consideration of the political phase of Fascism from 1919 to 1927. To the reviewer's mind, this is one of the best treatments of the political history of Fascism that has thus far appeared.

SHEPARD B. CLOUGH.

Columbia University.

Les Transformations récentes du Droit public Italien. By SILVIO TRENTIN. (Paris: Marcel Giard. 1929. Pp. xxiii, 696.)

The author of this book was professor of public law in several Italian universities and is now living in France in exile. This work appears as the twenty-fifth volume of the "Bibliothèque de l'Institut de Droit Comparé de Lyon," and was prefaced by J. Bonnecase, of the University of Bordeaux. Though the author is a convinced opponent of the present Fascist régime, and though sometimes a suppressed feeling of exacerbation vibrates in his tone, he is always fair in his presentations and logical in his conclusions. In spite of the fact

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that the literature of Fascism—Italian and foreign—already fills a comprehensive library, nevertheless the present volume can be regarded as unique in its scope and treatment. Its uniqueness consists in the fact that the author considers his task as essentially jural. The underlying social, political, and historical facts are scarcely touched, whereas the bulk of the book is devoted to a thoroughgoing analysis of the Fascist system as a constitutional framework and method of procedure. In order to show what the Fascist constitution really means, he gives in the first part of his book a penetrating study of the former constitution—the famous Charter of Charles Albert—which is still accepted, at least theoretically, as the foundation of the Italian public life. This analysis, however, is not a dry description of items and paragraphs, but a fine piece of political psychology in which the whole spirit and function of the *Statuto* is carefully elaborated.

In the second part of his book, M. Trentin describes the new organs of the Fascist state, their development and interdependence. In a labyrinth of laws and decrees, sometimes supplementary, sometimes contradictory, the author shows the continuous growth of Fascist institutions as they were established, partly as the fruit of certain ideological conceptions, but mostly under the pressure of circumstances and as a result of necessary compromises. It is interesting and instructive to see how the new Fascist currents crept into the state, so to say, hollowing out the meat of the *Statuto,* leaving only an empty shell, so that the crown, which was formerly the radial point and initiator of the constitution, now stands "shorn of all its powers, deprived of all its prestige, torn from its traditions, obliged to abdicate its duties and to violate its engagements. It represents for the future only the extreme, inglorious, ephemeral survival of a force extinguished forever."

Besides the organs and functions of the constitution, the individual rights of citizens are minutely analyzed, in the public, private, and professional field. Especially the restrictions on the freedom of emigration are strongly stressed. The final part of the book is a detailed and illuminating criticism of the Fascist doctrine of the state compared with the theories of contemporary jural science. M. Trentin shows convincingly that the Fascist system has really nothing in common with the schools of Durkheim, the syndicalists, Duguit, Kelsen, and other modern authors, with which the Fascist theorists try to prove their affiliation. In a substantial appendix, containing almost one

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hundred and fifty pages, the author gives a verbatim translation of all the important Fascist documents. There is no doubt that the conscientious work of M. Trentin will serve as an indespensable source-book for all those who wish to understand the more intimate jural structure of the Fascist state.

OSCAR JÁSZI.

Oberlin College.

Die Organisation der Rechtsgemeinschaft. Untersuchungen über die Eigenart des Privatrechts, des Staatsrechts, und des Völkerrechts. VON WALTHER BURCKHARDT. (Basel: Helbing & Lichtenhahn. 1927. Pp. xvi, 463.)

Geopolitik; die Lehre vom Staat als Lebewesen. VON RICHARD HENNIG. (Leipzig und Berlin: B. G. Teubner. 1928. Pp. viii, 338.)

Walther Burckhardt, professor of law at the University of Bern, joins the modern school of determined seekers after the right law *(das richtige Recht)* rather than what an older school has been calling positive law. But in this search he goes his own way.

Burckhardt starts with the postulate that "there must be a just order of community living," for the reason that "the validity of law *(Recht)* cannot be deduced from any other proposition." He holds that "if this postulate were not a primary truth, law *(Recht)* could not be the measure of conduct. Law would then itself have to be measured by another criterion, and that would be an absurdity." The just, he writes, must be done simply because it is just, otherwise justice would lose its meaning. "If law *(Recht)*, the positive expression of justice, had a purpose, it would have only relative value, for law wants to be the criterion of valuation, that is its only possible meaning" (p. 130).

Burckhardt thus posits a primary ethical order embracing all forms of human community living and the state as the highest of these forms. The state is the highest form of community life because it is society organized for the determination and enforcement of what its appointed organs have found to be the right law under the given circumstances. "The state," he writes, "exists therefore not to realize 'law' *(Recht)* on the one hand, and on the other, to do in addition all kinds of things . . . . , such as teaching school, generating electricity, maintaining institutions of communication and traffic, opening houses of credit,

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in order to further 'Kultur,' wherever it may suit. The state exists only to realize justice. That is its only purpose . . . . '' (p. 136).

Having thus fixed the state as an organization within a primary ethical order, and for the sole purpose of realizing justice in the form of right law, Burckhardt posits two exceptions to the rule. The state, he says, may, in the arbitrary manner of a private person, act without considering itself bound by principles *(Grundsätze),* when it proceeds accidentally and for the better execution of its legal tasks, as for instance in the administration of its domains, or its fiscal and movable property, in order to obtain the highest possible returns for its public needs. Nor is the state, according to Burckhardt, bound by principles in its relation to other states, except to the extent to which other states consider themselves bound by the same principles. For though each state is subordinate to international law, it is not called upon to execute that law. ''It is within the propriety of the individual state to protect its own law *(Recht)* against others, for nobody else will protect that law for the state'' (p. 137).

The reviewer regrets that the preceding scanty lines are totally inadequate to convey an idea commensurate with the significance of Burckhardt's work for the cause which he undertakes to advance. It is to be hoped that his efforts will soon find the critical treatment accorded the labors of Kohler and Stammler in Hocking's essay on ''The Present Status of the Philosophy of Law and of Rights,'' and the attention given the whole movement in the writings of Judge Cardozo.

It is with the same regret that one approaches here also the futile attempt to do justice to the book of Richard Hennig, authority on international communication and traffic. In Hennig's work we are offered in words and charts the moving picture, so to speak, of the historical state as a vital organism—its origin, growth, life and death, its relation to other vital organisms like itself, envisaged from the aspect of all possible geographical, ethnological, social, psychological, and economic determinants. A selection of some of the formal topics under which the subject is treated will give at least some conception of the extent and the depth of the author's efforts. In successive chapters he deals with the zones of the earth in their influence upon the origin of states, and the Mediterranean as the creator of the first maritime states; the character of the soil and the influence of flora, fauna, and climate; the changing character of frontiers as conditioned by geophysical, political, strategic, ethnological, and economic considerations;

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the laws determining the choice of a country's capital and its seaports; the question of over-population; hunger after space as a cause of political conflict; the problem of colonization; and, finally, tendencies to internationalize waterways, the issues leading to the conception of a United States of Europe, and the attempts to establish some kind of economic Monroe Doctrine.

Hennig's book is the product of a conscious effort to assist his compatriots in freeing themselves from their pre-war provincial outlook in matters of international concern and to envisage world problems in terms of continents rather than of states. This effort is part of a general movement for the widening of the political horizon inaugurated by Ratzel and Kjellén, known as the young science of geo-politics. It has found current expression in the German-speaking countries in a new journal issued under the title *Geopolitik*. Thus, from the aspect of its contents, Hennig's work is of extreme importance alike to the historian, economist, political scientist, and statesman.

JOHANNES MATTERN.

Johns Hopkins University.

Das Minoritätenproblem und seine Literatur. By DR. JACOB ROBINSON. (Berlin und Leipsig: Walter de Gruyter & Co. 1928. Pp. 265.)

Dr. Robinson presents here an invaluable critical survey of the literature on the national minority problem. Out of a mass of heterogeneous literature on the subject published in all the languages of Europe, he has succeeded in building up an analytical critique. As the author points out, it is not a mere registration of all the published works, but rather a selection of matter pertinent to the subject—a *bibliographie secondaire ou raisonnée.*

The scientific value of critical bibliographies is obviously open to question. It is no doubt subjective in its process of selection and interpretation. There are no distinct surrogates, no established criteria to lead or limit the compiler. Values, therefore, become variables or indeterminates, and selection becomes more or less arbitrary. What one man may select as pertinent, another man may omit as extraneous. In a field where scientific monographs are still lacking, whose literature is the work almost exclusively of "interested parties," the standard classification of sources is hardly applicable. Works produced by university professors in the minority countries are often mere polemics, or, at best, legal briefs. Scientific institutions with established reputa-

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tions produce questionable ethnographic maps. Articles appearing in journals and newspapers, on the other hand, sometimes assume primary value as an expression of one point of view. Primary sources thus often become secondary or worse, and vice versa.

To the discriminating research worker, however, the critical bibliography appears rather as an aid than as an inclusive and ultimate source-book. In Dr. Robinson's work, the reader has before him, grouped into convenient form and in readable German, an array of otherwise inaccessible literature hidden under a polyglot of languages. It includes monographs, general works, periodicals, the reports of scientific bodies, official documents, and the literature of the League. The work is divided into three sections. The author first considers in detail the forms and nature of the literature bearing on the minority question. The state and nation are next considered in their various concepts. The third section, covering more than a hundred pages, takes up the international phase of the question, including the minority treaties, League procedure and League action, and the reaction of state and minority to the new régime.

Dr. Robinson's selection and interpretation of material, as well as his classifications, do not always call for unqualified approval. Such important works on the Austro-Hungarian Empire as, for instance, those of Auerbach, Gumplowicz, Rauchberg, Ficker, Böckh, Eötvös, Biedermann, Mohl, Neumann, and Redlich do not appear in the bibliography. Conspicuously lacking are the decisions of the supreme courts and administrative courts. There is a sparsity of ethnological works on the various populations. The materials on Greece, Bulgaria, and Turkey also require some supplementing. On the whole, however, the collection is as adequate as could be expected in a first edition. One cannot help wondering at the amazing linguistic capacity of the author, who skips from the Ugrian Finnish tongues to remote Lettish and Lithuanian, to the different branches of the Slavic language, to Greek, Hebrew, and Latin, in addition to the more familiar European languages. The work gains coherence because it is that of one person rather than of several coadjutors, but it also exhibits the shortcomings inherent in the transposition of meanings from one language to another. As a scientific approach, however, it is easily the most important contribution to the minority problem in Europe.

M. W. Royse.

Harvard University.

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The Collected Papers of Paul Vinogradoff. With a Memoir by the Right Honorable H. A. L. Fisher. (Oxford: The Clarendon Press. 1928. Two volumes. Pp. viii, 326; 509.)

It may be true, as the Right Honorable H. A. L. Fisher asserts in the Memoir which serves as the introduction to the *Collected Papers of Sir Paul Vinogradoff,* that "the life of a great scholar . . . . can seldom offer the variety of interest active or emotional which attracts the general reader to a biography." Yet in this case the biographer has undoubtedly succeeded in putting before his readers those aspects of the achievements and career of this great scholar that make him an "arresting figure" even to those who cannot follow him into the far reaches of his more technical knowledge. For his one-time associates and friends, the figure of Sir Paul lives again on every page; for those who were not privileged to know him personally, Mr. Fisher has drawn a picture so vivid as to create almost the impression of having known him in the flesh; while for those who knew him only as the savant and teacher of later life, the Memoir performs the most welcome service of revealing the circumstances of his birth and upbringing, in the midst of which may be discerned the early development of many of those qualities that finally combined to make him the great universal figure that he was.

The Memoir is written also with a depth of understanding and affection well calculated to bring out the human characteristics which were so marked a part of Sir Paul's personality, even to those who knew him only a little. In him, as is pointed out, "the man was never lost in the student." The truth of this statement is to be seen not only in the great variety of his personal pursuits and interests—in his love of music and his delight in the game of chess, in both of which his skill was great; in the zeal with which he worked, up to the end of his life, in the cause of a sound popular education for Russia; in his deep and unceasing devotion along all lines to the Russia of his allegiance, a devotion increasingly tinged with disappointment and sadness until, as his biographer says, the Russian Revolution broke his heart. It is evident also in the very concrete and personal applications of the abstract principles of jurisprudence which he was so prone to make in elucidating them to his students, as well as in his close and methodical study of present-day conditions everywhere as expressions of the general and universal in human experience which more and more attracted him in the study of the past. "Pontiff of Comparative Juris-

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prudence in Oxford'' as he was, and ''indefatigable in toil,'' ''he was no anchorite; but enjoyed with a double measure of gusto a good concert, a good farce, and a good dinner.''

The continuous development of his interest in the general and the universal in the ''human'' or ''social'' sciences is well brought out in the Memoir. ''The student of Vinogradoff's writings will note,'' the writer says, ''that as he proceeds in life the deepening channels of the specialist widen out into the broad waters of comparative jurisprudence. Instead of contracting with senescence, his horizon widens.'' The power and the habit of deep technical research which made possible the great trilogy on which his fame chiefly rests, *Villainage in England, The Growth of the Manor,* and *English Society in the Eleventh Century,* remained unremittingly with him to the end, and in his later life were put to the service of an increasingly comprehensive comparison and interpretation. At the University of Michigan during the winter of 1923 he conducted Saturday conferences with the members of the law and political science faculties, in which, according to the dean of the University, he introduced ''a spirit of coöperation and an interest in the whole field of social study,'' all too rare because of the paucity of leaders possessed of the vast erudition combined with depth of understanding and breadth of vision which were his. At Williamstown in the summer of 1924 Sir Paul directed a round-table on modern juridical theories, not soon to be forgotten by those fortunate enough to be included among its members. Here the power of his philosophising mind playing upon the rich stores of his encyclopaedic knowledge seemed almost to develop a new method in political philosophy, in the close and vital linking of theory and fact. And finally in his *Outlines of Jurisprudence,* unfortunately not completed at his death, he had planned what would have been an unprecedented exposition of the interrelationship of at least five of the great modern sciences—law, logic, psychology, social science, and political theory.

The Collected Papers also bear abundant testimony to the writer's growing preoccupation with the interconnection of the human sciences. Arranged chronologically, they clearly reveal the progressive replacement of the more historical by the more philosophical treatment of the subjects in which he was interested. Some of the later papers were those delivered during his American visits in 1923 and 1924 to which reference has already been made, but there are many others of similar

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nature. It is, of course, this phase of Vinogradoff's work which is particularly significant for political science, since it is especially by reason of it that political scientists are enabled to count him one of their own. There is, in fact, no page of political science that has not been illuminated by his researches and his discriminating comment. In this field, as in all others in which he worked, he stands as an intellectual giant, enlarging the proportions and the significance of everything on which he laid his hand.

ELLEN DEBORAH ELLIS.

Mount Holyoke College.

Peel and the Conservative Party: A Study in Party Politics, 1832-41. By GEORGE KITSON CLARK. (London: G. Bell & Sons. 1929. Pp. xii, 515.)

Toryism and the People, 1832-1846. By R. L. HILL. With a Foreword by Keith Feiling. (London: Constable & Co. 1929. Pp. xiii, 278.)

These two books deal with the Tory party and its leaders during the period of reform which followed immediately after the Reform Bill of 1832. Mr. Clark's very substantial volume is an elaborate history of Sir Robert Peel in his relation to the politics and political personalities of the time. Mr. Hill's book is a discussion of the Conservative party in its relation to the working classes, labor organizations, and labor legislation.

Certain characteristics of the period are stressed. The fluid nature of the parties after 1832 and the lack of a Conservative policy are emphasized. So is Peel's position as a moderate conservative reformer, which made him a leader unsatisfactory to the agricultural Tories and other ultra-conservatives. The lack of coördination between the leaders in Parliament and the Conservatives in the country is shown. Mr. Clark, conscious of the limitations of his subject and the fact that the period is in itself confused, presents us with the elaborate picture just as it is. The faults of his book are mostly those inherent in the matter. Mr. Hill tries to find a Tory policy on social matters, and, failing, produces a series of essays, some of them, such as that on Conservative party organization, of considerable value.

Both books are useful. Both show a careful and elaborate use of manuscript and other contemporary material, and both are part of the fundamental work of investigation which is necessary if we are

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ever completely to understand the politics of the time. Both, however, are harder reading than they should be; Mr. Clark's partly because he admires Guedalla's *Palmerston.*

E. P. CHASE.

Lafayette College.

English Poor Law History: Part II, The Last Hundred Years. BY SIDNEY AND BEATRICE WEBB. (London: Longmans, Green and Co. 1929. Two volumes. Pp. xvi, 1-468; viii, 469-1085.)

"With the publication of these two volumes," say the authors, "we bring to an end a task on which we have been engaged since 1899, the analytical and historical description of the structure and functions of English local government. Like our works on *Trade Unionism* and the *Consumers' Co-operative Movement,* though on a larger scale, these ten volumes are studies of the structure and functions, in origin, growth, and development, of particular social institutions."

Some of the earlier volumes in this monumental series have already passed in review through these pages.[1] The present work, which follows one published in 1927 entitled *The Old Poor Law,* considers the whole course of legislation and administration affecting the poor in Great Britain from the framing and passage of the Poor Law Amendment Act of 1834 to the year 1929. The story told in these volumes is complete in itself, for it covers the whole of "a unique episode in English constitutional history, namely, the creation, development, and ending of the Board of Guardians of the Poor, as an elected *ad hoc* Local Destitution Authority, working under the direction and control of a Central Department, itself in 1834 a constitutional innovation." The publication is unusually well timed, for even as the authors were completing their work the Conservative government was, in December, 1928, guiding through Parliament the Local Government Act, 1929, which imposed "the sentence of death . . . . on the century-old Boards of Guardians." In a brief Epilogue the authors illuminate the poor-relief provisions of the new legislation, point to amendments which are still needed, and cast a quick glance into the future of British poor-law policy.

Between the preface and the appendices of these volumes will be found matter of deep interest to many different specialists. Sociolo-

[1] See vol. 1, pp. 277-282; vol. 2, pp. 645-647; vol. 17, pp. 487-491.

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gists and social workers will find nowhere a more exhaustive analysis of the operation of certain principles and methods of the relief of destitution. Students of economics and of labor problems can hardly ignore any part of the work, although they will be more particularly interested in the chapters on "unemployment as a disease of modern industry" and " the recurrence of able-bodied pauperism" since 1920. Those who study political institutions, whether national parliaments and cabinets or local governments, will find meat on every page. But it is perhaps the rising group of more specialized students of public administration who will most need these volumes. Here is the intimate life-history of a central government department from its inception, through its various transformations over a period of one hundred years. Here is depicted the slow, timid, groping process by which a central department, apparently powerful, gradually, and never completely, imposes its control upon some 600 local boards of guardians.

Strange and interesting characters appear upon the stage. It is the ghost of Bentham which at first hovers over the scene. Then it is seen that his doughty spirit has not passed on, but has been reincarnated in Edwin Chadwick, his literary secretary, who later, as secretary of the Poor Law Commissioners, defies and denounces his superiors, with the result that he is excluded from their meetings and sent out to do more useful work. "Surely," say the Webbs, "in all the history of the English Civil Service, there has never been another such secretary!" Lord John Russell is in the background, but Nassau Senior, T. Frankland Lewis and his son George Cornewall, and John George Shaw-Lefevre have more prominent and interesting parts. As a body, "the three Bashaws of Somerset House" (original poor-law commissioners) are hardly adapted to the villainous parts to which some opponents try to assign them; but the "Bastille" (the workhouse, in which "the workhouse test" is to be applied) is made to appear to some as a veritable den of tortures.

As the early fury against the legislation of 1834 slowly subsides, the work of the central government in supervising poor relief becomes merged with other work under the Local Government Board, over which Sir John Lambert (1871-1882), Sir Hugh Owen (1882-1899), Samuel Butler Provis (1899-1910), and others preside with efficiency but with a strong tendency toward legalism and bureaucratic formalism. In the meantime, slow developments outside of poor relief, in such fields as public education and public health work, are gradually

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undermining the whole system of central and local organization for the relief of destitution. Prevention, not suppression, becomes the prevailing policy. The poor-law principles of 1834 and the whole superstructure of administration are already in decay when Beatrice Webb and her associates try to shake it to earth with their Minority Report of 1909. But the time is not yet. The war must intervene, and unemployment must again become a serious national menace before a new and wiser policy becomes possible. The ending is happy only in part; for, although the Laborites can applaud the abolition of the boards of guardians by the Conservatives, they can but hope for better policies under an act which leaves to county and county borough councils so much freedom of choice as to methods. The problem of unemployment is still unsolved, and the authors close with a plea for "the full and complete assumption, by the national government itself, of the responsibility for dealing with unemployment and the unemployed." To this plea the Labor government has already begun to respond.

None but the Webbs could have written these two volumes. Their long and intimate contact with the whole problem, the special insight possessed by Beatrice Webb as a result of her membership on the royal commission of 1905-9, their unrivaled knowledge of the problems of the working class and of local and central government, their unexcelled capacity and facilities for research, and their unswerving zeal for the promotion of public welfare through the investigation of social problems combined to set them apart as the ones preëminently fitted for the task.

Their readers throughout the world may congratulate themselves upon the fact that Sidney and Beatrice Webb have been able in these volumes to complete so thoroughly, and with so brilliant a final flourish, the monumental work on English local government to which they set their hands fully a generation ago.

WILLIAM ANDERSON.

University of Minnesota.

The Splendid Adventure. By the Rt. Honorable W. M. Hughes. (London: Ernest Benn, Limited. 1929. Pp. xviii, 456.)

Students of government have noted with admiration not unmixed with perplexity the genesis of a new conception of Empire relations in the British Commonwealth. The story of this genesis during the past two decades is told, and told well, in this book. Particularly

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effective is the treatment of the dilemma in foreign relations between the unity of the Empire and the diversified points of view of its several parts. In addition, the reader will find an excellent brief consideration (particularly from the Australian angle) of the problems of Empire trade, immigration, and communication, and chapters on the peculiar position of Egypt and India.

The author is the well-known former premier of Australia. He does not hesitate to draw conclusions. To him, unity in foreign policy is essential if the Empire's voice is to be effective in the councils of the world. Consequently he views with alarm, on the one hand, any tendency of Great Britain to ignore the opinion of the Dominions, and, on the other, the centrifugal tendency (particularly on the part of Canada and the Irish Free State) to appoint separate ambassadors. If a common foreign policy is to be developed, swift communication is vital, and one gathers that the Empire is thus to be saved by the wireless and the aëroplane!

The author writes from the point of view of a passionate lover of the Empire. He believes thoroughly in the destiny of each of its several parts as well as of the whole. He is the Imperialist in his attitude toward its backward peoples, and regards complete self-government for India as absurd for many years to come.

Passing over a distinct anti-American bias and occasional inaccuracies of detail, one notes as perhaps the only major defect of the book an unjustified attitude of omniscience on public questions, with a corresponding intolerance toward the other side. The author's conclusions may or may not be sound, but he does less than justice to the points of view of the Egyptian and Indian nationalists and of those who look to the League of Nations to become more and more the arbiter of the world's destinies.

Yet this perhaps typical omniscience of a prime minister may be forgiven for what the book really accomplishes. The analysis of Empire relations is a keen one; nay more, it bears the unmistakable stamp of reality reserved for studies by men who have themselves participated in the events in question. Without in the least losing sight of practical problems, the author has succeeded in conveying both the nature and the importance of those intangibles of sentiment, patriotism, and loyalty which are the secret of the strength of the British Commonwealth of Nations.

The book is important and effective. The standard accurate, authori-

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tative, and objective book on the subject of the British Commonwealth of Nations remains to be written. Pending its arrival, however, Mr. Hughes' work should be known to all students of comparative government.

ERNEST S. GRIFFITH.

Harvard University.

Social Research; A Study in Methods of Gathering Data. BY GEORGE A. LUNDBERG. (New York: Longmans, Green and Co. 1929. Pp. xi, 380.)

Research in the Social Sciences. EDITED BY WILSON GEE. (New York: The Macmillan Co. 1929. Pp. x, 305.)

An evidence that the social sciences are beginning to find themselves as sciences is supplied by the publication, quite recently, and in America alone, of as many as half a dozen books dealing with the methodology of social research and the relations of the social disciplines to one another. Two of these, of widely differing nature, are noted in the present review.

The first—Professor Lundberg's *Social Research*—bears a good deal of resemblance to Bogardus's *The New Social Research* and the more recently published Odum and Jocher, *Introduction to Social Research.* All three are concerned primarily with methods of gathering data, and, after an introductory chapter on the prospects of social science, Professor Lundberg confines himself quite strictly to that matter. The difficulties of objective observation of social phenomena are characterized; the mechanics of research, in relation to such matters as terminology and classification, are discussed; the principal accepted methods of social inquiry are catalogued; and rather full consideration, in separate chapters, is given to the sample in social research, the schedule as an instrument of observation, field work, case studies, measurement of attitudes, measurement of social institutions, and the standardization of social statistics.

The study is predicated upon the belief that no essential differences separate the social from the physical sciences, and upon the corollary that "the only adjustment technique adequate to modern social situations" is the technique of natural science. The reviewer is not convinced of the full validity of these assumptions, but he readily concedes that in the first four chapters of the book Professor Lundberg

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makes out a strong case for the opinions which he holds. In any event, his analysis of natural-science methodology in its undeniably broad and useful application to social research is as satisfactory as can be found in print. The volume ought to be at the elbow of every less experienced investigator of social problems, and even experts will find some things of interest in it.

When the Institute for Research in the Social Sciences was organized at the University of Virginia in 1926, Professor Gee, as director, proposed that its program of work be launched under the inspiration of a series of lectures by outstanding scholars dealing with the fundamental objectives and methods of research in the various social sciences. The suggestion was received favorably, and the second volume here noted is the visible result. Without exception, the nine lecturers selected for the series were as eminent and capable representatives of the various fields of learning as could have been assembled. For example, the late Professor Allyn Young spoke for economics, Dr. Wissler for anthropology, Dean Pound for jurisprudence, Professor Dewey for philosophy, and Dr. Beard for political science. The resulting volume, edited by Professor Gee, duplicates nothing hitherto published, and there is not a chapter but merits careful reading by every worker in the several fields touched upon.

Political scientists will turn with special interest and expectation to Dr. Beard's contribution. They will find a frank, clear, sympathetic, and convincing statement of the obstacles to the creation of a true science of politics, followed by a fuller discussion of the form which such a science must take, "assuming it were possible to create it." Ideally, the desired science would "deal with known tendencies projected in time; it would be in some-indeterminate measure prophetic" —the future being, as Dr. Beard has more than once reminded us, "as real as the past, if we but knew it." Such prognosis is conceded to be pretty well beyond our reach. What we can hope to have, however, is "intelligence applied more or less ardently and fearlessly to that aspect of human affairs which we call political." Even this presupposes not merely the amassing of political data, but arrival at a far more adequate conception of "intelligence" than we at present possess—a conclusion which, it is hardly necessary to remark, offers Dr. Beard an opportunity for some observations both amusing and instructive.

Assuming the requisite intelligence, the question remains of the

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method by which it is to operate on the data of politics. The answer sometimes given is: By the method of natural science. But, says Dr. Beard, the "analyzing and adding" method of natural science is "applicable only to a very limited degree and, in its pure form, not at all to any fateful issues of politics." Indeed, he affirms categorically that "no science of politics is possible; or if possible, desirable." The thing to be looked for is intelligence applied to the political facets of our unbroken social organism—in short, "creative thinking;" and with some challenging comments on the conditions (especially in universities) favorable or unfavorable to such thinking, the discussion comes to a close. One is left with no very definite impression as to what visible manifestations and tangible results of creative thinking in politics we may expect eventually to behold. But doubtless Dr. Beard would say that this is precisely the sort of thing that cannot be predicted—else a science of politics would, after all, lie within our grasp.

FREDERIC A. OGG.

University of Wisconsin.

Electrical Utilities; The Crisis in Public Control. By WILLIAM E. MOSHER, Editor; FINLA G. CRAWFORD, RALPH E. HIMSTEAD, MAURICE R. SCHARFF, LOUIS MITCHELL. (New York: Harper and Brothers. 1929. Pp. xx, 335.)

Dr. William E. Mosher and a staff of associates, under the auspices of the School of Citizenship and Public Affairs of Syracuse University, have performed a timely and valuable service in presenting in one compact and readable volume the more important outlines of the present status of the public control of electrical utilities, the dominant problems relating to such control, and an evaluation of several proposed solutions of the problems.

The authors support their assumption that there is a crisis in public control by presenting in a clear outline the essential elements in the situation, as follows: 1. The electric power industry has grown rapidly, and is assuming a place of great importance in our economic and social life. 2. The functions of the electric power industry are essentially of a social nature. The authors point out that "to the extent that those in control of the industry resent and resist public regulation and take profits in excess of a fair return on the prudent investment in the industry, they are obviously looking upon themselves, not as quasi-public officials and custodians of a great public trust, but as the representa-

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tives of a private industry with no other responsibility but to their own investors'' (p. xx). This attitude is one of the important causes of the crisis.

3. Financial structures have been erected without adequate public supervision. This is especially true in the case of holding companies. In this connection, the authors state that the ''returns from the original investment are being pyramided and the financial structure is being erected which bids fair to impose an intolerable burden on the industry, and one which will affect rates to consumers for an indefinite period'' (p. xix). It is interesting to note that at this point the writers take sharp issue with leading public utilities officials, who advocate the principle that the capital structure of the holding company cannot affect the rate level for the subsidiary operating company, and consequently cannot affect the cost of electric current to the consumer, since the rate level is based solely upon the fair value of the property of the operating company used and useful in the enterprise. The writers of this book, however, show that the determination of rates is not so simple, and that with a commission of amateurs, assisted by an inadequate staff, the public has little chance to prevent holding companies, through management charges, contracts, and various other methods, from having an appreciable effect upon rate-making.

4. The public service commissions have failed, for divers reasons, to regulate the industry satisfactorily. Among the many reasons given are: unsatisfactory and often obscure legislation; a poorly paid staff, inadequate as to numbers and technical skill; and a changed attitude on the part of the commissions with regard to their function. Originally they considered their function to be that of a public protector, but in recent years they have, in the main, constituted themselves a board of impartial judges set up to decide between the public and the utilities. According to the authors, this ''leaves the public without the effective guardianship to which it is entitled. The withdrawal of the commission from this field removes the only state agency competent to undertake the responsibility'' (p. 21).

5. There is no satisfactory basis for determining valuations for rate-making purposes. This lack is the result partly of unsatisfactory legislation, but especially of the somewhat uncertain decisions and *dicta* of the courts. The authors have correctly recognized that rate-making is at the very heart of the whole public utility control issue. In this connection they have clearly stated the issue between the ''pru-

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dent investment'' theory and the ''reproduction cost-new'' theory as a basis for rate-making. The influence of the Indianapolis water-rate case is recognized as tending to operate as a virtual nullification of rate regulation, because the commissions have been influenced as much by what the court has said in this case as by the actual decisions in other cases. It is interesting to note in this connection how strikingly the point was illustrated recently in the decision of the district court of the Southern District of New York in the case of New York Telephone Company v. Wm. A. Prendergast, etc. (See *U. S. Daily*, Nov. 19, 1929). The crisis has been accentuated somewhat by the propaganda activities of the electricity companies, as brought out in the hearings before the Federal Trade Commission.

Part II of the book is devoted to an evaluation of the several types of public control which are worthy of consideration as means of meeting the crisis. The first suggestion is that control might be secured through contracts made by the states. These contracts would bind the companies to accept a rate base definitely fixed upon the principle of fair return on *actual investment*. Thus by the contract method the state would be able to free itself from the complications and uncertainties growing out of the *dicta* of the courts on the principle of fair value. Whether the courts would declare such a contract valid, however, is highly problematical.

In the second place, it is suggested that public competition in the form of government ownership of power plants at Muscle Shoals, Boulder Dam, etc., might ''serve as a 'yardstick' for all power projects in the region'' (p. 210). The third proposition is the control by a league of municipalities such as has been operating in the Canadian province of Ontario. The fourth proposal is that of control through a National Planning Commission. Such a commission would be similar in many respects to the Electricity Commission created in England by the law of 1919, and the Electricity Board created by the Electricity Supply Act of 1926.

The last method suggested is control through national ownership. The authors recognize, however, that legal and financial difficulties and strong public sentiment on the subject of government ownership are weighty obstacles. They point out, however, that the best means whereby public utilities may escape public ownership is ''acceptance of such changes in the regulatory system as will eliminate the unfortunate practices which have grown up in recent years'' (p. 291).

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The book contains a well selected classified bibliography. Dr. Mosher and his colleagues are to be congratulated on producing a work of such high merit, and one which is of great and timely interest, not only to political scientists, but especially to government officials, to the utility industries, and to the general public.

ORREN C. HORMELL.

Bowdoin College.

Public Budgeting: A Discussion of Budgetary Practice in the National, State, and Local Governments of the United States. BY A. E. BUCK. (New York: Harper and Brothers. 1929. Pp. x, 612.)

The scope of this work is well indicated by its main divisions, which are: Part I, The General Aspects of Public Budgeting; Part II, Budgetary Forms and Information; Part III, Budget-Making Procedure; and Part IV, The Execution of the Budget.

Mr. Buck has been delving assiduously into the problem of budget-making since the publication of his first book on this subject in 1921, and the fruits of his labor are garnered in the present volume. He has broadened his treatment to cover, not only the formal and technical aspects of the subject, but also the historical, legal, social, and economic phases. His wide range of contacts and his wealth of material are revealed by the abundance of his references to actual budgetary practices throughout the country. He knows what is being done in federal and state budget construction; but he also knows what the budget officers of Berkeley and Boston, of Detroit and Brunswick, Georgia, not to mention the cities in between, are doing. This practice of keeping his discussion in close contact with the realities gives a vitality and reality to Mr. Buck's treatment of the subject which is at once the envy and the despair of the armchair scientist.

The book is written for the practical administrator as well as the student. Like its predecessor volume, it abounds in forms and samples of good procedure; but these are much more varied and comprehensive in the present than in the earlier book. The insertion of a large number of such forms in the text, though probably preferable on the whole to relegating them to an appendix, is not without its drawbacks, as the text comment does not always keep pace with the forms and a search through several pages is sometimes necessary in order to locate the figure or form under discussion.

Mr. Buck's conception of the theory and scope of the budget-making

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and budget-executing processes is so adequate and so sound that his book can be read and used with great profit by all who are concerned with this important subject. He has dealt with it from the standpoint of the officials who must construct, approve, and execute the budget—a sufficient undertaking for one book.

Another aspect of the problem, which was doubtless beyond the author's boundary in this work, remains. This is the discovery and development of a suitable technique for popularizing the budget—getting its meaning across to the people in such manner as to make them "budget-conscious." There is some discussion of publicity in this book, but it is incidental, and the educative procedure involved in giving vitality to the budget in the thought of the people is not touched upon. The gulf between the formalities and technicalities of a sound budget procedure and what the budget program means for the people, in terms both of public expenditure and public revenues, is wide and deep. Democratic control of public finance requires, however, that it be bridged. Mr. Buck has contributed notably to the architecture on one side of this chasm. It is to be hoped that he will assist with the remainder of the job.

H. L. Lutz.

Princeton University.

Regional Survey of New York and Its Environs: Volume II, Studies of the Growth and Distribution of Land Values; and of Problems of Government. Prepared by Thomas Adams, Harold M. Lewis, and Theodore T. McCroskey, including contributions by various other persons. (New York: Committee on Regional Plan. 1929. Pp. 320.)

No brief review can do justice to the multiplex contents of this document. A metropolitan area embracing 5,528 square miles and including probably 10,000,000 inhabitants is brought under the microscope of social science and subjected to exhaustive examination and analysis to ascertain the causes and conditions bearing upon the distribution and movement of its population, the creation and destruction of its land values, and the structure and processes of its institutions of local government. The result is a study which not only unfolds a fascinating history of the social, economic, and political factors entering into the development of the prodigious urban agglomeration that has its nucleus

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on Manhattan Island, but also casts a horoscope of future development and suggests intelligent measures of social control.

For the sociologist, the economist, and the political scientist, this volume is a treasure trove of source material. More complete and more perfect data illustrating the inevitable coëfficiency of social, economic, and political forces are nowhere to be found. Accessibility to population, for example, is shown to be the first element in creating land values, but it also appears that the fluctuation of land values has much to do with the ebb and flow of population, and that the distribution of both land values and population is deeply affected by governmental policies as to taxation, transportation, public improvements, city planning, and public utility regulation.

One wonders if the lessons taught by the findings of this survey will make any impression upon the motley array of big and little frogs who run the political and business affairs of the many turbid puddles which make up this dismal swamp of metropolitan life. The authors of the survey indulge no hope of organic union of the 436 political communities, scattered over portions of three states, which collectively constitute the metropolitan region; but they vaguely anticipate the possibility of an interstate federation of communities through the enlargement and extension of coöperative government under state treaties. It is a consummation devoutly to be wished, but one which will tax resources of statesmanship to the utmost.

CHESTER C. MAXEY.

Whitman College.

Suffrage and its Problems. By ALBERT J. MCCULLOCH. (Baltimore: Warwick and York, Inc. 1929. Pp. 185.)

This monograph concisely reviews the conditions under which the elective franchise was used in the American colonies and traces the abandonment of some qualifications and the introduction of others in the subsequent history of the United States. Suffrage problems pertaining to negroes, to women, and to immigrants are discussed separately and in that order. The solution, repeatedly proposed (pp. 59, 65, 73, 129, 175), is the minimum requirement of high school training for voters.

A few inaccuracies may be noted. Suffrage was taken from the residents of the District of Columbia in 1874 instead of 1878, and the

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governing commission is not appointed by Congress (p. 81). Too many annual elections were provided for in early state constitutions to justify the statement that "tenure of office was longer than it later became" (pp. 161, 173). Eighty per cent of all electors have not voted in presidential elections for some time (p. 162). No recent authority is cited to support the estimate that as high as 35 per cent of the urban vote is purchasable (pp. 72, 163). "Formerly, electors were exhorted by campaign orators; today, they must be reached through some form of press activity" (pp. 13, 65, 72). No mention of the radio is made. It is hardly exact to say that "a permanent quota basis was established in 1927" (pp. 135, 145, 150), when the two per cent of the 1890 census provision was continued until June 30, 1929. There are typographical errors in citations of the Yick Wo (pp. 102, 182, 185) and Ozawa (pp. 137, 181, 184) cases. "Caucasians" rather than "free white persons" are said to be eligible for naturalization (p. 138), and there is no reference to judicial interpretation of that phrase, as in the case of United States v. Thind (261 U. S. 204).

Some more general features of the treatment of suffrage problems may be questioned. Suffrage "is a privilege conferred by the sovereign people" (p. 9). Who compose "the sovereign people?" The author does not attempt to show, in the account of actual extensions or limitations of the suffrage, how "the sovereign people" brought about these results. Nor does he make clear his reason for citing so many opinions expressed between 1890 and 1900 and so few, comparatively, of more recent origin. Newspaper editorial opinion is cited without dates (pp. 96-97). Periodical literature is frequently cited by number (not volume) and page, without date, and elsewhere by date but not by volume or page.

Again, why heap so much blame on the foreigner for corruption in American cities? Professor Munro has pointed out that cities with relatively low percentages of foreign-born are not noticeably better governed than are those with higher percentages. The immigrant can hardly be blamed for declines in civic interest which follow waves of reform (p. 143). Finally, the reviewer cannot, on the showing made, find cause for alarm in the "menace of foreign radicalism" in the United States (pp. 49, 53, 155-156), although sympathizing with the general trend toward more stringent immigration and naturalization regulations. Nor does it seem necessary to "deport the persistently un-Ameri-

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can'' while everyone remaining in this favored land returns ''to the simple Christian faith of the fathers'' (p. 176).

The defects which have been noted by no means destroy the value of the monograph. The four tables listing suffrage qualifications in each colony and state from 1621 to 1929 evidence a great amount of painstaking and useful work. The accompanying comments summarize the tabulated facts in convenient form. Writers of American government texts should consult Professor McCulloch's book in order to correct or clarify their statements concerning citizenship as a requirement for voting.

HOWARD WHITE.

Miami University.

Labor and Farmer Parties in the United States, 1828-1928. By NATHAN FINE. (New York: Rand School of Social Science. 1929. Pp. 438.)

This is a detailed, factual account of the political activities primarily of labor organizations and very secondarily of farmers' organizations from the establishment of the Philadelphia Workingmen's party in 1828 to midsummer of 1925. The account is too much a catalogue of dates, personalities, programs, election results, and statistics to warrant characterization as ''narrative,'' but it is valuable as a fund of information and as a reference volume. There are so many threads for the author to handle in weaving the fabric that it is not surprising that the reader loses the major lines of the pattern at times, though closer attention of the author to precise terminology and names of the labor and socialist organizations would have aided materially in a clearer understanding of his production.

From local political societies organized in the late twenties and early thirties, through the state labor parties of the sixties and seventies, to the appearance of a labor party in the national arena in the eighties, the movement is traced. The vicissitudes of the agricultural producers in the Granger, Greenback, Populist, and Farmer-Labor party movements, as well as the varying fortunes of socialists of both ''red'' and ''pink'' varieties, are all sketched in more or less detail.

Mr. Fine holds that the campaign of 1924 was of historic interest, if only for the fact that workers, farmers, progressives, and socialists actually did get together, independent of the old parties, on a program which all could fully and whole-heartedly accept—and what has once

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been can be again. Even in the present low ebb of labor, farmer, and socialist political organizations in this country he is hopeful; he has faith in the future of the labor-agrarian political movement because from the century's record he observes that such organizations never ceased springing up, and that they appear to be as inevitable here as in Europe, where to date they have been more successful.

HAROLD R. BRUCE.

Dartmouth College.

Source Book of American Political Theory. By BENJAMIN FLETCHER WRIGHT, JR. (New York: The Macmillan Company. 1929. Pp. vi, 664.)

Teachers of political theory agree that a reading of source material is essential to a proper understanding of the ideas of any thinker. Only in that way can the atmosphere of the period be appreciated. For that reason a source-book of well selected extracts is useful as collateral reading or as an outline around which a course may be organized. Professor Wright has added to the long list of such books in his *Source Book of American Political Theory.*

The material is grouped in nine chapters, dealing with (1) the theocratic controversies of the colonial period; (2) the arguments of the American Revolution; (3) the early state constitutions; (4) the creation of the Federal Constitution; (5) the early issues under the Constitution, as expressed in the writings of John Adams, Alexander Hamilton, Thomas Jefferson, and John Taylor; (6) the growth of constitutional democracy as indicated in the debates of various state constitutional conventions; (7) the doctrines of the slavery controversy; (8) the theories of the nature of the union and the struggle for state sovereignty; (9) some recent tendencies. Each chapter is prefaced by a brief introduction and is followed by a list of references to secondary material; and each selection is introduced by a brief explanatory statement.

The author has not attempted to cover all the issues of American political thought. He gives chief attention to the controversies of the early period of American history and to the struggle over the creation and the interpretation of the Constitution. Little fault can be found with his selections on these topics. The book is of slight value for the period since 1850. The issues of the years between 1850 and 1898, when the important problems of reconstruction and of the relation of gov-

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ernment to business were uppermost, are omitted entirely. And the selections of the final chapter, which covers the period from 1898 to the present, are chosen somewhat at random, and give little idea of the general nature and problems of recent American political thought. Five-sixths of the entire volume is devoted to the theories prior to 1850. This gives a lack of balance and a weak background for an appreciative understanding of the issues of the present day. No attention is given to American doctrines of foreign policy, of territorial expansion, or of local government.

RAYMOND G. GETTELL.

University of California.

A Guide to Material on Crime and Criminal Justice. Prepared by AUGUSTUS FREDERICK KUHLMAN. (New York: The H. W. Wilson Company. 1929. Pp. 633).

This volume is intended as a guide for the research student and is part of the report of the committee of the Social Science Research Council on a preliminary survey of research on crime and criminal justice in the United States. It is to be followed by a report on the present status of research on crime and criminal justice in the United States, prepared for the committee by Raymond Moley. The work is a classified and annotated union catalogue of books, monographs, and pamphlets in thirteen selected libraries and of periodical articles listed in the leading periodical indexes relating to criminology, the administration of criminal justice, criminal law, justice, judicial organization, criminal procedure, punishment, institutional treatment of offenders, pardon, parole, probation, the juvenile court, and crime prevention. In preparing the guide, Mr. Kuhlman has had the coöperation and assistance of Dean Wigmore of the Law School of Northwestern University, Dean Justin Miller of the Law School of the University of Southern California, Professor Eldon R. James, librarian of the Harvard Law School, Professor Raymond Moley, Mr. Bruce Smith of the National Institute of Public Administration, and numerous others.

As stated by Mr. Kuhlman, "the primary purpose of the Social Science Research Council in launching this survey was to take stock of all research work on crime and criminal justice in the United States, in order to provide a basis of fact upon which its advisory committee on crime would be able intelligently to consider and formulate proposed research projects that are submitted for approval. Further, it was

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believed that the compilation and publication of such material would be of assistance to serious students of the crime problem and would stimulate further research."

The usefulness of the volume is increased by brief annotations of a descriptive nature to "all material that is of value for research purposes wherever the title does not convey adequate information relative to scope, content, and method of treatment." The book will be invaluable to all students of the subject, and the supplementary report will be awaited eagerly.

A. C. HANFORD.

Harvard University.

Politics and Criminal Prosecution. By RAYMOND MOLEY. (New York: Minton, Balch & Co. 1929. Pp. xii, 238.)

This is an important contribution to the literature of criminal administration, and Professor Moley's experience qualifies him to speak with authority. The book's essential theme is the power of the prosecuting attorney under modern conditions to trade with the accused. The extent to which a person guilty of crime is to be punished depends primarily upon the nature of the bargain that he may drive with the prosecutor. The criminal's strength in this bargaining depends in large part upon the political influence which he may bring to bear. And where the measure of punishment lies in the uncontrolled discretion of one man, as it does in bargaining for pleas of guilty, a favorable exercise of this uncontrolled discretion will often be purchasable. Thus prosecution, politics, and official corruption unite to defeat the impartial administration of the criminal law. The problem so created is well analyzed by the author. The reader is disappointed with his conclusions, although somewhat consoled by the fact that here is a person unequipped with a ready solution for all the woes of the world. The chapter on prosecution in England and Canada should be of distinct interest to students of criminal administration in this country.

WALTER F. DODD.

Yale Law School.

Liberty in the Modern World. By GEORGE BRYAN LOGAN, JR. (Chapel Hill: The University of North Carolina Press. 1928. Pp. xiv, 142.)

In his first chapter Mr. Logan refers to Lord Acton's well-known failure to write his history of liberty. A good many people have

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foolishly ventured into parts of the field which Acton abandoned in despair. Mr. Logan is one of the few who have ventured and not proved themselves foolish. He outlines the development of liberty in law, thought and expression, and government, and discusses the recent beginnings of liberty in the economic field. Then he considers the relation of science to human liberty, and liberty in connection with humanism and religion.

Liberty he defines as "the fullest and freest adaptation of man's character, faculties, and habits to the world of nature, the world of his fellows, and the central world of consciousness, and his resulting use of them all, in so far as he is able to use them, for his own good" (p. 6). This is apparently not intended as a scientific definition. But it shows that, though influenced by the modern emphasis on collectivist values, Mr. Logan writes in the tradition of the *Areopagitica* and the essay *On Liberty*. He tries, however, to analyze liberty in contemporary terms. Like a preacher successfully interpreting a rigid creed, he makes the concept practicable without in any way destroying it. His liberty has the old spiritual value, but it is a modern liberty for a progressive society.

In most of the ground covered there obviously can be no originality. The treatment, however, is mature, and almost merits the term brilliant. It is a pity that Mr. Logan did not live to write a lengthier treatise, for he plainly had something to say, and what he has said, even in this small space, is highly suggestive. The volume can be recommended as worth the serious attention of any one interested in political philosophy.

E. P. CHASE.

Lafayette College.

International Relations. By RAYMOND LESLIE BUELL. Revised Edition. (New York: Henry Holt and Co. 1929. Pp. xvii, 838.)

The revised edition of Mr. Buell's *International Relations* comes to fill a place already prepared for it. For there must be few students of international relations who have not made the acquaintance of the first edition, and they as well as others outside the class-room have for a number of years been kept in touch with international events of the day by the information bulletins issued by the Foreign Policy Association under the direction of Mr. Buell. All this is merely to say that the author needs no introduction to his readers.

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That the field of international relations covered by the present volume is a wide one, with ill-defined boundaries, may be noted by way of caution. Its relation to the cognate field of international law is somewhat like that of politics to constitutional law. Just as the problem of government in its larger sense is a problem not merely of organization and fixed legal rules controlling its activities, but of social forces, economic conditions, and agencies for the expression of public opinion, so the problem of justice and order among the nations is a problem which involves not merely the narrowly restricted rules of conduct that have attained the position of law, but the diversified interests, social and economic, which bring one nation into association or conflict with another and which are thus the moving forces promoting or retarding the progress of international life. That the line between this wider field of international politics and international law in the strict sense can be drawn with only approximate accuracy is an indication of the fact that international law is still in need of definition and development.

Some qualification, therefore, must be made if we are to accept Mr. Buell's statement that he is approaching the subject of international relations "from the viewpoint of political science—to begin where international law leaves off." Certainly the chapter on minorities deals with a question which is in several countries the subject of binding treaty obligations and is therefore well within the range of international law. The same is to be said of the chapters on the international aspects of the drug and liquor control and international humanitarianism. Again, the problem of mandates is definitely within the scope of legal regulation, as are the problems of sanctions, world courts, renunciation of war, international conferences, and conspicuously the League of Nations.

The new material incorporated into the revised edition deals with the events of the past four years. A discussion of the Young Plan supplements the contents of the chapter on Reparations and Allied Debts; the Pan American Conference at Havana in 1928 figures under The Confederation of Nations; a description of the International Economic Conference of 1927 completes the chapter on Economic Internationalism; and the Locarno Agreements, the Kellogg Pact, and the Geneva Naval Conference of 1927 are described under The Renunciation of War and the Limitation of Armaments. While the revised edition brings the book up to date, the revision is not so thor-

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oughgoing as to prevent the simultaneous use of the first edition where it is already on the book-shelves.

It is scarcely necessary to add that the revised edition will be no less warmly welcomed by teachers than was the edition which has already established its position. The absence of bias from the discussion of controversial points, the careful attention to accuracy, the presentation of innumerable facts in a readable narrative, together with the full bibliographies accompanying each chapter, are strong points of commendation.

C. G. Fenwick.

Bryn Mawr College.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND CONSTITUTIONAL LAW

Teachers of state government have been hard pressed to find good biographies dealing with American governors other than Roosevelt's *Autobiography* and the various works on Woodrow Wilson. In both of these cases national problems naturally overshadowed those of the state. Alfred E. Smith's autobiography, *Up To Now* (The Viking Press, pp. 434), therefore, fills an important gap. With a style that is direct, vigorous, and clear, ex-Governor Smith tells the story of his public career and in doing so brings his reader into intimate contact with the government and politics of New York State. The titles of some of the chapters indicate the wealth of material that is found in the volume: "Learning the Legislative Ropes," in which Smith confesses that during the first session he did not at any time really know what was going on, and that the second term was "as much of a blank;" "Growing up with the Legislature;" "In and About the Legislature;" "Lobbies, Issues and Legislation;" "Making a New Constitution for the State;" "The First Year as Governor;" "Remaking a State," in which the governor tells of the fight for administrative reorganization and budgetary reform; "Some Social Problems," in which are described the struggle for social, industrial, and educational legislation; "Some Responsibilities of Being Governor," which emphasizes the strain placed upon the governor by numerous social duties, and especially by the pardoning power; "Putting Business Methods into Government," and "Figures and Finances." No teacher of state government can afford to overlook this autobiography.

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The Story of the Democratic Party, by Henry Minor, is not so much a story as a catalogue; it is a list of events and of the persons, important and unimportant, participating in them, rather than the history of an institution. The author has not been judicious in the selection of his materials, and as a result the study is overcrowded with details that have juxtaposition rather than relationship. This naturally makes for dull reading and slight understanding of the broader implications of the subject. A tendency to eulogize good Democrats does not reassure the reader of the objective attitude of the writer. Nor can one always agree with the estimates and appraisals that are made, as for example: "History will doubtless place McAdoo as one of the great finance ministers of all time." Again, speaking of Marshall's eight years as vice-president, the author states: "It is only fair and just to speak of it as the Wilson-Marshall administration." Although portions of the book are helpful and indicate an intimate grasp of minutiæ on the part of the author, the work as a whole lacks the breadth of conception that transforms happenings into history.—E.P.H.

A revised edition of Professor Charles E. Merriam's valuable textbook, *The American Party System* (pp. ix, 488), has appeared from the press of the Macmillan Company. The title-page bears also the name of Harold Foote Gosnell, who aided in the revision and added two new chapters: one on The Ballot and Election Laws and another on Popular Interest in Voting. These chapters are based upon the results gained from field work among the voters in Chicago and elsewhere. The facts are presented with the verve of study at first hand, and the significance of the problems taken up are also discussed. Perhaps the chief merit of the study as a whole is the attention given to interpretation as contrasted with mere description and historical summary. The footnotes have been amplified and new references added that contribute greatly to their usefulness. In its present form, the volume may be welcomed to the increased sphere of usefulness awaiting it.

Some of the addresses and discussions at the Rollins College Institute of Statesmanship in March, 1929, have been edited by Prof. L. H. Jenks under the caption *The Future of Party Government* (Winter Park, Fla., pp. 134). The session was in the nature of a clinic to examine the vitality of the Democratic party in the South. Among the diagnosticians were Senator Walsh of Montana, President Chase and

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Professor J. G. de R. Hamilton of the University of North Carolina, Professors John Dickinson and Lindsay Rogers, and Messrs. George Fort Milton and Robert Lathan of the press. Other topics were the possibility of a distinctly liberal party, discussed by O. G. Villard, Norman Thomas, Albert Shaw, and Professor A. C. Cole, and some aspects of democracy in the machine age by Dean Shepard and Professors Kendrick and Pollock. A number of the papers, such as Professor Rogers' remarks on party responsibility, are of more than passing interest.

George Harvey, by Willis Fletcher Johnson (Houghton Mifflin Co., pp. x, 436), bears the sub-title "A Passionate Patriot." This rather accurately sets the tone of the entire book. The biographer handles his subject in a very sympathetic fashion—in fact, in too uncritical a manner for perfectly balanced treatment. At the same time, by the copious use of letters and of selected excerpts from Harvey's writings, Mr. Johnson draws a very clear picture of the American editor and diplomat. The work is of particular interest to the student of politics for the intimate account given of Harvey's relations with Woodrow Wilson. Perhaps too much emphasis is placed upon the influence of Harvey upon Wilson's career. Certainly the author goes a bit far when he describes Harvey's casual suggestion to Wilson that he might become known as the "Father of the Peace of the World" as implanting in Wilson's mind "the germ, which through strange perversions, was developed into the ambition to form and to lead a world-wide League of Nations." Despite a certain degree of bias from which no enthusiastic biographer is entirely free, Mr. Johnson has written a very interesting life-story that casts a new gleam upon Anglo-American relations and upon the inner politics of president-making.

Lobbying, by Edward B. Logan, is an excellent summary study of the "institution through which influence is brought to bear upon legislators and administrators." It is published in pamphlet form as a supplement to Vol. CXLIV of the *Annals of the American Academy of Political and Social Science* (pp. 100). After citing numerous specific examples of lobbying activities in connection with important acts of federal legislation, the author comes to the conclusion that "the third house of Congress is no myth—it is a strong, real part of our governmental system." In substantiation of this opinion, he describes, in turn,

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a few of the more important national organizations that maintain headquarters in the capital from which to carry on their persuasive work. Perhaps the most valuable part of the study is that dealing with the place of the lobbyist in government. How should he be regulated? What should be his relation to the political party, to the legislature, to the public? The author discusses these questions, and others, with an understanding and penetration that are both enlightening and stimulating.—E. P. H.

An important current problem of government is dealt with most thoroughly and accurately in John J. George's *Motor Regulation in the United States* (Band and White, Spartanburg, S. C., pp. xix, 226, vii). The author first explains the magnitude of the motor carrier industry and then discusses "the motives and means of instituting public regulation, the organization, jurisdiction, and work of the regulatory agency, its scope, regulation, the form of permission to operate as a public carrier, and the process and factors involved in receiving that permission." Attention is given also to "requirements as to public safety, service, and rates; to the matter of special taxation of motor carriers, and to the transfer and revocation of their certificates to operate. The relation between rail carriers and motor carriers" is treated, and emphasis is "placed on the problem of regulating those motor carriers which are interstate in their operation, the efforts of the states to regulate them, and the necessity for the national government to deal with interstate operation. Finally, a statement of the principles revealed in the process of regulation and an appraisal of that process" are set forth. The author points out that the prohibition of state denial of certificates to interstate carriers in the Buck and Bush cases has stripped the states of their most effective weapon of regulation and created a "no man's land" so far as certification is concerned. The facts presented in the study show that federal legislation on the interstate phase is imperative. The author is of the opinion that such legislation should embody a provision utilizing "the state commissions as administrative agencies, with provision for joint state boards, and also for appeal to the Interstate Commerce Commission." The numerous cases cited are listed in a table of fourteen pages.

The New Jersey Constitution of 1776, by Charles R. Erdman Jr., of Princeton University (Princeton Univ. Press, pp. viii, 166), is one

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of the best brief studies of one of the original state constitutions known to the reviewer. Like most of the first state constitutions, the New Jersey constitution of 1776 "did violence to the dogma of separation of powers, that cardinal principle of American political theory, by intermingling functions of an executive, judicial, or legislative nature in an indiscriminating manner and by setting up a legislature to which the other departments were completely subordinated." In spite of the fact that there were practically no restrictions upon the powers of the legislature, "certain constitutional theories which were evolved subsequent to 1776 reacted upon and limited the legislative power." The way in which constitutional theories operated as a check upon legislative power is the central theme of the study, and is treated in two excellent chapters on "Legislative Omnipotence vs. the Supremacy of the Constitution" and "Judicial Review and the Development of the Doctrine of Vested Rights under the Constitution of 1776."

Polk, The Diary of a President, 1845-1849, is a very interesting book made up of selections from Polk's original four-volume account of his term in the presidency. The complete diary was published in a limited edition by the Chicago Historical Society, so that this present collection, edited by Allan Nevins, makes generally available for the first time Polk's own account of the many important acts that transpired during his administration. Of particular value is the light shed upon the relations between the President and the leading politicians of the day: witness Senator Benton's proposal that he be made commander of the U. S. army in Mexico, and Buchanan's plea that he be appointed a justice of the Supreme Court. Although there is evidence throughout that Polk was writing the diary for posterity, it still gives a revealing account both of the President and of his times. The book is published by Longmans, Green and Co. (pp. xxv, 412).

Orren C. Hormell's bulletin on *Corrupt Practices Legislation in Maine and How it Works* (Bowdoin College, Municipal Research Series No. 8, pp. 31), although prepared primarily for the purpose of study by the Maine League of Women Voters, has more than local interest. It is the author's conclusion that the corrupt practices law in Maine "acts as little more than a sedative to quiet the public conscience, rather than as a cure for the political ills for which it was devised," and that there should be a complete revision of the legislation relating

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to the use of money both in the primary and election campaigns, and especially a strengthening of the administration of the law.

The American Federal System, by K. Smellie (Williams and Norgate Ltd., London, pp. viii, 184), is frankly nothing more than an introductory account of the problems of American government designed for the general reader in England. In compiling this brief survey of the government of the United States, the author has relied upon the best of the standard works on the subject written by American scholars. The constitution, parties, Congress, the judiciary, and the executive are explained clearly, and with understanding. The economic interpretation of politics is stressed.

Two new volumes have been added to the series of Service Monographs of the United States Government published by the Institute for Government Research of the Brookings Institution, namely, *The Bureau of the Census* (pp. x, 224), by W. Stull Holt, and *The Bureau of Prohibition,* by Laurence F. Schmeckebier (pp. x, 333). These monographs describe the history, activities, and organization of the respective bureaus. Reprinted in the appendix of each are the laws that concern the work of the governmental agency discussed. Both books contain a full bibliography.

The Houghton Mifflin Company has rendered a great service to students and teachers of American government by bringing out a two-volume edition of the late Albert J. Beveridge's monumental *Life of John Marshall* (pp. xxii, 506; xvi, 594; xx, 644; xvi, 668), which sells for ten dollars. The work is not abridged in any manner, but is merely printed in more compact form without reducing the attractiveness of the format or the legibility of the type.

LOCAL GOVERNMENT

In the course of his study, *The Conditions of Municipal Employment in Chicago,* in 1926, Professor Leonard D. White came to the conclusion that the morale of public employees is deeply affected by what the public thinks about them. In order to determine what the people of Chicago really think about the employees of their city, Professor White and his assistants obtained from 4,680 residents personal opinions re-

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garding the relative prestige values of some twenty characteristic occupations in both public and private employment. The results are set forth in a book entitled *The Prestige Value of Public Employment in Chicago* (Univ. of Chicago Press, pp. xix, 183). Professor White found that the 4,680 citizens interviewed "expressed a substantial preference for private employment rather than city employment, and in such crucial matters as integrity, competence, courtesy, and attention to duty, rated city employees much lower than persons in similar occupations in the business or commercial world." Furthermore, his investigation indicated that city employment in Chicago apparently tends to command the greatest amount of respect from "the immature, the uneducated, the foreign born, and the laboring people." The author does not believe that the responsibilty for this unfavorable attitude toward public employment rests with the employees themselves, because, in his opinion, it would be difficult "to distinguish between the intelligence, skill, and loyalty of the mass of city employees and an equal number of industrial and commercial employees." An analysis of the data collected shows, he believes, that the low prestige value of public employment is due to the fact that the "direction, supervision, control, and management of city employees is political and has been political for so many years without interruption that the citizens of Chicago have little confidence in it. . . . . The more so since 'politics' has sunk to a low estate in Chicago for fifteen years." As a result, an "essentially dishonest situation has become established in city employment. . . . . This dishonest situation is created, maintained, and emphasized by those responsible for the personnel policy of the city, above all by the mayor and council."

In 1923 the Harvard University Press published a *Manual of Information on City Planning and Zoning,* by Theodora Kimball, which contained an introductory statement of principles and procedure; a description of the work of the National Conference on City Planning; an account of the services performed by the Division of Building and Housing of the Department of Commerce; a list of national organizations active in promoting city planning; records of city-planning progress in the United States and other countries; suggestions on conducting publicity campaigns for city planning and zoning; and a bibliography of 115 pages, including a selected list of references covering the field of city planning. Since 1923, the planning and zoning

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movement has "progressed by leaps and bounds, with a corresponding increase in current articles and papers." Miss Kimball, now Mrs. Theodora Kimball Hubbard, with the assistance of Katherine McNamara, has prepared a supplement to the original manual bringing it down to date and adding references on regional, rural, and national planning. The supplement and the original manual are published in a single volume under the title *Manual of Planning Information, 1928* (Harvard University Press, pp. ix, 188; viii, 103).

Messrs. P. S. King and Son of London have published a small volume entitled *Local Government* (pp. viii, 119), by E. Bright Ashford. As indicated by the sub-title, the book is intended as a simple treatise which will give in skeleton form the chief facts on English local government. The author attempts to show that the present local government system is a combination of two conflicting ideas, "the one representing local sentiment, individuality, amateur work done by elected and unpaid workers; the other defined by such words as efficiency, uniformity, coördination, central control." Emphasis is placed on the activities of the local governments, such as public assistance, education, public health, child welfare, housing, care of defectives, highways, municipal trading, etc., rather than on organization and structure. The information is up to date and includes a description of the changes made by the Local Government Act of 1929, under which the poor law unions, as areas of local administration, and the boards of guardians will cease to exist after April 1, 1930.

FOREIGN AND COMPARATIVE GOVERNMENT

Under the title of *The Making of New Germany* (D. Appleton and Company, two vols., pp. xv, 368; ix, 373), the memoirs of Philipp Scheidemann, which appeared in Germany in 1928, have been made available to English-speaking readers. The translation by J. E. Mitchell has succeeded admirably in preserving the humor and freshness of the original, but one is entitled to doubt whether the impressive title which has been added to these memoirs in the English version is wholly justified. There can be no question that Scheidemann played a leading rôle in the rise of Social Democracy in Germany and in its ultimate, if somewhat short-lived, triumph; but the tone of these volumes is essentially personal, despite the great political events with which they deal. The intention of the author seems clearly not to have

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been to discuss or portray these events in the light of their general historical significance, but rather to justify his participation in them. For the historian, these volumes will add little that is definitely new. They do, however, add substantially to our general understanding of the period of Germany's rise, fall, and reconstruction, and give exceedingly interesting portraits of certain of its outstanding figures. As an account of the making of new Germany, they are disappointing; but as the lively memoirs of a man who was in the midst of the struggle, they are both illuminating and significant.

Packed between the covers of a small volume entitled *Political Britain: Parties, Policies, and Politicians: A Survey of Current British Politics, a Guide to the New House of Commons, and a Directory of Political Institutions,* edited by Michael Farbman (George Routledge and Sons, London, pp. 193), are a large amount of useful data for which one would ordinarily have to look in many scattered sources. The guide contains a brief description of the English courts; the names of the members of the present ministry; a list of the principal government and public offices and their incumbents; an explanation of the parliamentary franchise; the personnel of Parliament; a statement of the principal organizations and clubs of the three parties; a list of English newspapers and the party affiliations of each; and about seventy-five pages devoted to "Who's Who in Politics." There are also interesting articles on "British Policy of Today and Tomorrow," by H. N. Brailsford, in which the problems confronting the Labor ministry are discussed; "The Constitution," by Dr. H. Finer; "Parliamentary History, 1918-1929," by K. B. Smellie; "An Analysis of the Results of the General Election, May, 1929," by Harold J. Laski; "Electoral Reform," by J. H. Humphreys; "The Liberal Party;" "The Labor Party;" and the "Conservative and Unionist Party."

Hamilton Fyfe's *The British Liberal Party* (George Allen and Unwin, pp. x, 272) is what it purports to be—a fairly comprehensive, readable history of the British Liberal party. Its main thesis is that the party failed because it attempted throughout its course to unite both Whigs and Radicals—and hence could never be whole-heartedly progressive. Moreover, it has been particularly ill served by its leaders. Gladstone, in particular, comes off badly at the hands of Mr. Fyfe, although this is perhaps no more than a further evidence of the tend-

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ency these days to disparage things Victorian. To American readers, the book is chiefly interesting as by indirection shedding light on the reasons why the spirit of militant reform has now its preëminent vèhicle in the Labor party. Only the embers remain in the older party, and these in the person of its truly radical leader, Lloyd George.

It is difficult for the reviewer of such a comprehensive and scholarly project as the *Cambridge History of the British Empire* (Macmillan, pp. xxvi, 931), by J. Holland Rose, A. P. Newton, and E. A. Benians, to write anything save the obvious. That Cambridge University has undertaken the project is a warrant of scholarship both sound and broad. That the British Empire has a story worth the telling is a guarantee of the work's interest. The entire project contemplates eight volumes, of which the present is the first. Two subsequent volumes will bring the general story down to 1921; two others will deal with India; and one each will be devoted to Canada and Newfoundland, South Africa, and Australia and New Zealand. Though the method of treatment is topical, and though the twenty-six chapters of Volume I are the handiwork of no less than fifteen authors, the book has an undoubted unity. "The answer seems to be that the Empire or Commonwealth has not been made, it has grown; that it is the product of an island in which there has never been complete fusion; that it is the product of distance; and finally the product of evolution on family lines." Readers everywhere will be interested in the excellent survey of the Empire's growth presented in the introductory chapter; Americans will read with interest the masterful account of their Revolution seen through British eyes; scholars whose fields are economic history, sea power, or international law will find more than one chapter full of suggestive material.—E. S. G.

Josef Washington Hall (better known by the pen-name of Upton Close) is the author of another book on the "new" East. The volume is entitled *Eminent Asians,* and is published by D. Appleton and Company (pp. 510). The author discusses, in turn, Sun Yat-Sen, Yamagata, Ito, Mustapha Kemal, Josef Stalin, and Mahatma Gandhi. It could hardly be expected that the writer describe the personalities of these leaders from a thorough personal acquaintance with them all, but at the same time his treatment of them is graphic and sympathetic. In fact, the "man of destiny" attitude is adopted, and the author has his

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heroes contemplating their countries' respective salvation from an early age. The young Kemal, for example, "conceived his purpose in boyhood—he seems to have been born with it." And again, "while other boys slept, Mustapha read about the French Revolution. . . . . He visualized his own people freed from the galling tyranny of a ruler who was both weak and cruel." Such omniscience on the part of the casual biographer is hardly convincing. As novelized accounts of what Mr. Close imagines his heroes to be, the book is very interesting. The biographies seem, however, to be based upon secondary sources and tend to be superficial in treatment. It is a volume of vivid impressions.

The text of A. Meyendorff's *The Background of the Russian Revolution* (Henry Holt and Co., pp. xvii, 193) consists of the Colver Lectures at Brown University, but the notes now added, though jumbled, provide new material. Baron Meyendorff confesses to have been a liberal in the old régime; he is frankly reactionary to the present order. The Russian Empire remains a puzzle to him. One thing, however, is clear: imperial rule was "the most European of all Russian institutions." The revolutionaries—not only the Bolsheviks—were too impatient to "allow sufficient time for the representative system to develop." It was a great weakness that "Russian political thought was only very loosely determined by actual interests and conditions and belonged to the non-casual domain of arts, religion, and philosophy." In the stormy history of Russia, the "real continuity is to be found in the tenacious myth of the universal leveller."—R.V.O.

The International Institute of Public Law has recently published its first *Annuaire* (Les Presses Universitaires de France, pp. 603), edited by its secretary-general, Professor B. Mirkine-Guetzévitch. The first part of the volume contains data concerning the Institute; the second presents records of the session of 1928, including lengthy discussions by Professors Kelsen and Jèze; the third is devoted to extensive memorial articles on the late Professors Duguit and Hauriou; and the fourth and largest presents a rich collection of organic laws and other texts (dating from 1928) relating to constitutional developments throughout the world, including decisions of the Supreme Court of the United States. The publication is to be continued from year to year, and will be of value to all students of public law.

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La Tchécoslovaque (Librairie Delagrave, pp. 119), by B. Mirkine-Guetzévitch and André Tibal, is the initial volume of a series planned to deal with the political organization and problems of the various European states. Five brief chapters analyzing the Czechoslovak constitutional system, party situation, and political issues are followed by some sixty pages of pertinent documents, presented, of course, in French.

In *Le Statut de l'État Libre d'Irlande* (Rousseau & Cie, pp. 252), Dr. Guillaume Faucon presents a useful survey of the constitutional law and history of the Irish Free State, especially as touching relations with Great Britain, with the British Commonwealth, with foreign powers, and with the League of Nations. A final chapter attempts a general summary of the juridical position both of the Free State and of the British Empire.

INTERNATIONAL LAW AND RELATIONS

During the Second Empire, French diplomacy was so much the personal policy of the Emperor that even his successive ministers of foreign affairs were often ignorant of the real feelings and intentions of their master. Despite the zeal and ability of the historians who have sought to solve the riddles of French policy in these crowded years, much remains obscure. If one pieces together those portions of the Emperor's correspondence which have thus far been published, and adds the scattered records of his conversations, the sum total remains, for many topics, sadly disappointing. *The Paris Embassy during the Second Empire. Selections from the Papers of . . . . Earl Cowley, Ambassador at Paris, 1852-1867,* edited by his son, Colonel the Hon. F. A. Wellesley (London: Thornton Butterworth, pp. xiv, 337.) throws fresh light on many such problems. Except perhaps for Lord Stratford de Radcliffe, so fiery and hard to handle, Lord Cowley was widely regarded in his day as the best horse in the British diplomatic stables. In length of service, and in the extent to which he commanded the confidence of Napoleon III, he enjoyed extraordinary advantages as an observer of French policy. The bulk of this volume is composed of the confidential correspondence exchanged by Cowley and the successive foreign secretaries—Granville, Malmesbury, Clarendon, Russell, and Stanley—private letters paralleling the official despatches and contain-

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ing the personal touches and fine shading so often lacking in the documents drafted with one eye turned toward Parliament and the public. With these are private letters from the Empress Eugenie, Richard Cobden, Palmerston, Raglan, and many others. Of special interest to American readers is the Emperor's proposal in 1865 of a defensive agreement which would bind both England and France to help each other in the case of hostilities provoked by the United States.—J. P. B.

The twenty-first essay in the series of *Völkerrechtsfragen* edited by Heinrich Pohl and Max Wenzel deals with a very important question of international law, namely, that of how to alter municipal law when the latter is not in accord with international law. Dr. G. A. Walz, the author of this contribution, entitled *Die Abänderung Völkerrechtsgemässen Landesrechts* (Ferdinand Dümmler, Berlin, pp. 174), investigates the English, American, German, and Austrian law, basing his analysis upon the theoretical assumption of a dual sphere of law (Oppenheim). He puts the more general question thus: What means are available within the general legal systems here under discussion, in order to prevent as much as possible conflicts between municipal and international law? The answers to the question in the several systems which he investigates suggest a general trend in the direction of adapting the national legal systems to the requirements of international law. He finds that it is erroneous to suppose the Anglo-American law leading in this development; on the contrary, the German Commonwealth and Austria provide a qualified constitutional protection for any principle of international law which has become part of the national law. This is a step forward which is without precedent in Anglo-American law. Dr. Walz's exposition is admirable in many respects, and happily combines a profound appreciation of the theoretical problems involved with a striking mastery of the existing law bearing upon his point. The literature quoted throughout affords an adequate introduction to the various aspects of the problem, but an index or an analytical table of contents would have been a useful addition to this otherwise highly satisfactory piece of work.—C. J. F.

Three books, totalling more than three thousand pages, have recently appeared upon cases in international law. The *Annual Digest of Public International Law Cases, 1925-1926* (Longmans, Green & Co., pp. xlv, 497), edited by Dr. Arnold D. McNair, of Cambridge Uni-

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versity, and Dr. H. Lauterpacht, of the London School of Economics and Political Science, is a digest of opinions of national courts of various countries, as well as of international courts, commissions, and tribunals. The brief digesting in a single volume of 371 cases has been made possible through the coöperation of more than twenty contributors from different countries. A table of cases digested, as well as a table of cases cited, together with an index of a topical nature, facilitates the use and adds to the value of an undertaking which is experimental and a long step in the direction of centering attention upon facts. The book edited by Professor Manley O. Hudson, of the Harvard Law School, is published by the West Publishing Co. as a volume in the American Case Book Series and is entitled *Cases and other Materials on International Law* (pp. xxv, 1538). It covers many of the cases previously presented in case-books. Professor Hudson has, however, not limited his selection of cases to the narrow and sometimes misleading national decisions often cited, but has included opinions from the Permanent Court of International Justice and other international tribunals. The arrangement of chapters is also in marked contrast to that of other case-books, in that such topics as "The Society of Nations," "International Claims," etc., are introduced and cases on war and neutrality receive relatively less attention. Something of the change of emphasis is indicated in the enumeration of material as table of cases, table of treaties, and table of national legislation. As an example, the essential clauses of six treaties were inserted as a basis for the decision in a single illustrative case. Many conventions are also included. *A Selection of Cases and other Readings on the Law of Nations* (pp. xxii, 1133), by Professor Edwin D. Dickinson, of the University of Michigan, is published by the McGraw-Hill Book Co. There is an attempt to limit this book to a field which seems to the editor suitable for an elementary course, and he thinks it clear that the relations of neutrality and of war should in the main be excluded. The purpose sought by the editor is stated to be "pedagogic rather than systematic," and "the volume includes much public international law, a good deal of private international law, some constitutional law, and a substantial selection from the municipal law which is applied by courts in various cases affecting international relations." These three books are evidence of the increasing attention which international relations are receiving, and the two American case-books show a tendency to include material other than cases in the study of international law.

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Both the Royal Institute of International Affairs and the American Council of the Institute of Pacific Relations are to be congratulated on the monographs prepared under their auspices for the recent conference of the Institute of Pacific Relations at Kyoto. Long experience in the Far East, including service as vice-consul and consul at Dairen, has given Sir Harold Parlett, counsellor of the British Embassy at Tokio, a mastery of his subject, enabling him to compress within narrow compass *A Brief Account of Diplomatic Events in Manchuria* (Oxford University Press, pp. viii, 93). To fifty-seven pages of narrative are appended thirty-four pages of documents and a short bibliography. Under the Chinese Eastern Railway contract of September 8, 1896, the Chinese government was to have the right of purchase thirty-six years after the completion of the line, as stated on p. 60, and not thirty years after, as stated on p. 9. Much more thorough in treatment is the scholarly and objective volume by Professor C. Walter Young, *The International Relations of Manchuria* (University of Chicago Press, pp. xxx, 307). The treaties, agreements, and negotiations concerning the three eastern provinces of China are summarized and analyzed with such painstaking care that very few slips are to be noted. The dates, May 10, 1910 (p. 95, note 107); 1902 (p. 106); and May 13, 1925 (p. 236), should be May 10, 1909, 1909, and May 13, 1915, respectively. The chapter in the *British Documents on the Origins of the Great War,* cited on p. 117, note 174, deals with the negotiations concerning the Anglo-Japanese alliance of 1905, and not the negotiations of 1911. The method of arrangement of material adopted by the author, however valuable in a reference work, involves an extraordinary amount of repetition. This, together with the rather heavy style, renders this admirable work somewhat tedious for those who read it from cover to cover, as no serious student of Far Eastern affairs should fail to do.—J. P. B.

Das Problem der Territorialkonflikte, by R. Flaes (Amsterdam, H. J. Paris, pp. 352), bears a somewhat misleading title. It is a doctoral dissertation presented to the law faculty of the University of Utrecht, in which the author examines the problem of territorial conflicts with a view to determining whether they are soluble by juridical methods. In order to reach some conclusion in this matter, the writer takes up the territorial history of Poland, which illustrates almost all the vicissitudes through which the territory of a state can pass. The upshot

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of it is that 288 out of the 352 pages of the book are devoted to the story of the transformation of the Polish territory. There is nothing novel about this portion of the book, which is based on a small number of general works, and does not even mention so fundamental a book as Lord's *Second Partition of Poland.* The general section which follows is devoted to an attempt to enumerate and classify the various types of territorial change and to an examination of the divers methods of settling the disputes that arise from them. The author's conclusion is a negative one, so far as his thesis is concerned. To the reviewer's mind, the book's value lies chiefly in the fact that it attempts to break ground for the study of an important and intricate question. It is written with detachment throughout, and makes no attempt to enter into a discussion of the practical politics of the Polish question.

The best chapters in *The Isthmian Highway,* by Hugh Gordon Miller (Macmillan, pp. xiv, 327), deal with the Panama Canal tolls controversy. Yet the author fails to mention the mission of Sir William Tyrrell, or to suggest any relation to Wilson's Mexican policy. The remainder of the book is rambling and badly organized. Although the author quotes extensively from primary sources, his analysis and interpretation of them often leave much to be desired. Roosevelt's action in the case of Panama is justified by an alleged right of eminent domain which the author believes to be recognized in that provision of the League of Nations' Covenant which states that members of the League "will make provision to secure and maintain freedom of communications and of transit." In the same vein he asserts that the right of a Central American republic to indulge in violent revolutions and to settle an election by resorting to civil war "is really not arguable." The United States, however, while revising its bookkeeping concerning the Panama Canal, should "ask the Hague Court to appoint an auditing (advisory) committee to represent the interests of collective civilization in this international waterway."—J. P. B.

For those interested in Near Eastern affairs or in imperialism, *L'Affaire de Mossoul,* by Dr. P. E. J. Bomli (H. J. Paris, Amsterdam, pp. 252), will prove of great interest. As Dr. Bomli carefully points out, the crux of the whole matter was oil. The former vilayet of the old Ottoman Empire, with its 88,000 square kilometers of barren land and 800,000 inhabitants, mostly backward Kurds, was of little in-

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ternational importance until the discovery of oil. The problem was thus primarily one of oil concessions, with English, French, and American groups competing for control. The work is primarily an analysis of the boundary dispute between Turkey and Great Britain, including a detailed discussion of its treatment by the Permanent Court and by the Council of the League, with a concluding chapter on the juristic principles involved. The book includes a brief but convenient review of the situation in Mosul since 1914.

In his *Origin and Conclusion of the Paris Pact* (World Peace Foundation Pamphlets, vol. xii, no. 2, pp. viii, 227), Denis P. Myers gives a scholarly résumé of the negotiations of the Briand-Kellogg Treaty and an analysis of its place in the systems of pacific settlement established by the states which are parties to it. The accompanying documents are well chosen, and are supplemented by a useful index of bipartite pacific settlement treaties.

The Working of the Minorities System under the League of Nations (Orbis Publishing Co., Prague, pp. 122), by Joseph S. Rouček, is a brief survey of the national minority question in Europe. It includes a discussion of the legal basis of the minority treaties and of League procedure. Several selected cases are discussed as illustrations of the problem, and in the concluding chapter the minorities system is justified.

Nowhere has the great significance of the Inter-American arbitration treaty and accompanying conciliation convention of January 5, 1929, been so well brought out as by Charles Evans Hughes in two lectures at the Yale Law School, published under the title *Pan American Peace Plans* (Yale University Press, pp. 68).

POLITICAL THOUGHT AND MISCELLANEOUS

The second edition of Walter Jellinek's *Verwaltungsrecht* (Berlin, Julius Springer, pp. xviii, 554), which is Volume xxv of the *Encyklopädie Der Rechts- und Staatswissenschaft,* testifies to the firm position which this work has already attained as a handy textbook on German administrative law. The changes are few as compared to the first edition, and they do not warrant discussion here. It may be worth while, however, to recall the general lay-out of the work. It contains an introductory part dealing with the delimitation of the field of *Ver-*

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waltung and *Verwaltungsrecht,* to which there is attached a useful general bibliography of administrative law in which even the foreign and comparative aspects are dealt with in outline. This critical bibliography is a good background for the special bibliography given at the beginning of each paragraph. The introductory chapter is followed by the *Allgemeiner Teil,* which is abstract and analytical in the tradition of German jurisprudence, taking up successively the sources of German administrative law, persons, public duties and rights, facts, administrative acts, protection against torts (both through administrative action proper and through administrative courts), and, finally, administrative coercion, etc. Separated from this "general" part is a special part dealing, among other things, with the public services, taxation, expropriation, police, and schools. It will be seen from this summary that the approach is in part juristic and analytical, in part functional and descriptive. It is another attempt to master the multiplicity of political phenomena contained in modern administrative activities with the conceptual tools of the jurist, an attempt which, when doomed to failure, necessarily seeks refuge in minute descriptions of activities without reference to any general concepts at all.—C. J. F.

In *English Thought in the Nineteenth Century* (Longmans, Green and Co., pp. x, 241), D. C. Somervell presents a pleasant sketch of the ideas and theories of the Victorian era. In accord with Dicey's classification, the author divides the period into three distinct phases: an opening period of Tory ascendancy lasting up to the passage of the Great Reform Bill in 1832; a middle period, extending to 1874, characterized by the ebullitions of evangelicalism, evolution, and Benthamite liberalism and the repercussions occasioned thereby; and a third period dominated by the concepts of imperialism, collectivism, and socialism. To attempt to introduce order into the varied and richly colored skein of tangled and conflicting thought of a nation during so full a century as the last is a well-nigh futile task. However, having outlined his scheme, the author introduces in turn the leading figures and proceeds to make a few explanatory remarks about each. This is gracefully and lightly done, but the thought of the period has not been grasped in its entirety, cogitated deeply, and then interpreted to the reader. Rather has the author remained content to act as chairman to a meeting of Victorians. Each in turn is presented, with some slight attempt at valuation. The book is not an interpretative synthesis of the thought of the period, but rather a lucid and brief survey.

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Current Research in Law for the Academic Year 1928-29, by Marion J. Harron (Johns Hopkins Press, pp. vi, 218), is the result of a survey, carried on under the auspices of the Institute of Law of the Johns Hopkins University, of current investigations and studies in law and related fields in the United States. Personal inquiries were sent to faculties of law schools; the faculties of American universities in the departments of anthropology, business administration, economics, history, political science, and psychology; bar associations; crime commissions; legislative reference bureaus; research foundations of the social sciences; and state and federal bureaus and departments. The reports on research projects which were received in response to this inquiry are arranged by the author under appropriate subject headings. In every possible case a brief description of the scope of the investigation is given, with the probable date of completion and the place of publication. Students of government will be especially concerned with the studies listed under such headings as administrative law and public administration; constitutional law; judicial administration; federal, state, county, and municipal government; international law; judicial review; jurisprudence; and legislation.

Lectures on Legal Topics, 1925-1926 (Macmillan, pp. viii, 359), is Volume VII of the addresses delivered before the Bar Association of the City of New York by various authorities. Many of the papers are of a non-technical nature, of interest to the general student of American government. This is especially true of the addresses on "The Jury," by Justice P. J. McCook of the New York Supreme Court; "Arbitration vs. Litigation," by M. H. Grossman, honorary president of the American Arbitration Society, Justice E. J. Lauer of the Municipal Court of New York, and Judge Julian W. Mack; "How Shall We Use an Old Constitution to Deal with New Conditions," by Governor Silzer of New Jersey, in which federal centralization is discussed and regionalism aided by interstate compacts is favored for the solution of certain interstate problems; "Naturalization," by M. A. Sturges, district director of naturalization, New York City; and "The Progress of a Criminal Case," by Justice W. H. Black of the New York Supreme Court. Students of international law will find a stimulating address on "The Part of International Law in the Further Limitation of Naval Armament," by Professor C. C. Hyde.

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The Pope is King (G. P. Putnam's Sons, pp. xii, 325) is written by an anonymous author under the pseudonym of "Civis Romanus." The "story" is told of the Roman Question and its recent settlement under the treaty negotiated between the Italian government and the Holy See. After the historical setting is given, the present factors of significance are indicated, and particular attention is given to Mussolini's rôle in the dramatic reconciliation. While the book is intended for the general reader, and the colorful elements are stressed, still the basic facts presented and the conflicting opinions with regard to the settlement make the work of some interest to the student of government. However, the book is generally lacking in any analytical discussion of the fundamental problems of statehood that the anomalous position of the Vatican city-state presents. The author has been content to offer a descriptive tale.—E. P. H.

The Vanguard Press is publishing a series of Outlines of Social Philosophies, two volumes of which have recently appeared. They are *The Socialism of Our Times* (pp. xiv, 377), a symposium, and *What is Socialism?* (pp. ix, 192), by Jessie Wallace Hughan. Inasmuch as these volumes are written as avowed propaganda by avowed socialists, they are very illuminating statements of points of view, not simply in content, but likewise in spirit. The hopes, the aspirations, and the fears of socialist thinkers, actors, and agitators are clearly delineated in the first volume mentioned, based as it is upon discussions that took place during a conference of the League for Industrial Democracy held in 1928. The book appears to be a verbatim report of this meeting. The volume by Dr. Hughan is a survey that attempts to give briefly the socialist position. The *status quo* is examined and its faults indicated; proposed remedies are cited and criticized. The socialist solution is then offered, its methods of realization are set forth, and various aspects of the new order are described. The book is a clear and fervent portraiture of the official Socialist party policy in this country.

In *The St. Lawrence Navigation and Power Project* (pp. xvi, 675), by Harold G. Moulton, C. S. Morgan, and A. L. Lee, the Brookings Institution presents a very comprehensive and excellent analysis of the economic aspects of the St. Lawrence River project. Among the many interesting aspects of the problem here discussed are the depth of chan-

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nel required, the practicability of the proposed waterway for various types of ocean shipping, and the initial costs and maintenance charges of the works. The authors find the project, from the navigation standpoint, economically unjustifiable, while present demands for power in Canada and the United States are held not to justify hydro-electric development on the scale contemplated. Considerably more than half of the book is devoted to appendices, these including the recent correspondence on St. Lawrence development between the United States and Canada and analyses of the import and export requirements of the Great Lakes—St. Lawrence region which might be served by the proposed development.

Continued discussion of the problem of railroad consolidation in the United States will lend interest in this country to Howard C. Kidd's *A New Era for British Railways* (Benn, pp. 158). The volume is, indeed, a study of the British Railways Act of 1921 from a distinctly American viewpoint. The advantages accruing from amalgamation are found to have been so great that few British railwaymen would care to return to the earlier order of things.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

BOOKS AND PERIODICALS

CLARENCE A. BERDAHL
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

Albion, Robert Greenhalgh. Introduction to military history. Pp. 444. N.Y.: Century Co.

Alexander, Uhlman S. Special legislation affecting public schools. Pp. 147. N. Y.: Teachers College, Columbia Univ.

Alldredge, J. Haden. Rate-making for common carriers. Pp. xix+201. Atlanta: Harrison Co.

Autobiography of Calvin Coolidge, The. N. Y.: Cosmopolitan Book Corporation.

Barnes, I. R. Aspects of public utility regulation in Massachusetts. Pp. 284. New Haven: Yale Univ. Press.

Beckner, Earl R. A history of labor legislation in Illinois. Chicago: Univ. of Chicago Press.

Beer, Thomas. Hanna. Pp. 348. N.Y.: Knopf.

Benson, Allan L. Daniel Webster. Pp. 402. N. Y.: Cosmopolitan Book Corp.

Brewton, William W. The Life of Thomas E. Watson. Pp. xiii+408. Atlanta: Privately Printed.

Buck, A. E. Public budgeting. Pp. 612. N. Y.: Harper's.

Catterall, Helen Tunnicliff, ed. Judicial cases concerning American slavery and the negro. Vol. II. Cases from the courts of North Carolina, South Carolina, and Tennessee. Pp. 661. Washington: Carnegie Institution.

Eckenrode, H. J. Rutherford B. Hayes: post-war reformer. N. Y.: Dodd, Mead.

Gosney, E. S., and *Popenoe, Paul.* Sterilization for human betterment. Pp. xviii+202. N. Y.: Macmillan.

Hankin, Gregory, and *Hankin, Charlotte A.* United States supreme court: a review of the work of the supreme court of the United States for the year 1928-1929. Washington: Legal Research Service.

Harris, Joseph P. Registration of voters in the United States. Pp. 408. N. Y.: Nat. Mun. League.

Hibben, Paxton. The peerless leader: William Jennings Bryan. N. Y.: Farrar & Rinehart.

Holden, Raymond. Abraham Lincoln: the politician and the man. N. Y.: Minton, Balch.

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Holt, W. Stull. The bureau of the census. (Service Monographs of the U. S. Govt.) Washington: Brookings Institution.

Hunt, Henry T. The case of Thomas J. Mooney and Warren K. Billings. Pp. 450. N. Y.: Nat. Mooney-Billings Com.

Jenks, Leland Hamilton, ed. The future of party government. Pp. 134. Winter Park (Fla.): Rodins Press.

Lawrence, David. The other side of government. Pp. 297. N. Y.: Scribner's.

Lief, Alfred, ed. The dissenting opinions of Mr. Justice Holmes. N. Y.: Vanguard Press.

Love, Philip H. Andrew W. Mellon: the man and his work. Pp. 319. Baltimore: Heath, Coggins & Co.

Lynch, Denis Tilden. An epoch and a man: Martin Van Buren and his times. N. Y.: Horace Liveright.

McCulloch, Albert J. Suffrage and its problems. Baltimore: Warwick & York.

McElroy, Robert McNutt. The life of Levi Parsons Morton. N. Y.: Putnam's.

McMillen, Wheeler. Too many farmers. N. Y.: William Morrow.

McMurry, Donald L. Coxey's army: a study in industrial unrest, 1893-1898. Boston: Little, Brown.

Moore, Clyde B. Citizenship through education. Pp. 330. N. Y.: Am. Book Co.

Mott, T. Bentley. Myron T. Herrick: in the footsteps of Franklin. N. Y.: Doubleday, Doran.

Muller, Helen Marie, comp. Government fund for unemployment. Pp. 169. N. Y.: H. W. Wilson Co.

National Industrial Conference Board. General sales or turnover taxation. Pp. xv+204. N. Y.: Nat. Ind. Conf. Board.

National Industrial Conference Board. The shifting and effects of the federal corporation income tax. Vol. I. Pp. 251. N. Y.: Nat. Ind. Conf. Board.

Nevins, Allan, ed. Polk: the diary of a president. Pp. 412. N. Y.: Longmans.

Simms, Henry H. The rise of the whigs in Virginia, 1824-1840. Pp. 204. Richmond (Va.): William Byrd Press.

Smith, Alfred E. Up to now: an autobiography. N. Y.: Viking Press.

Smith, Darrell Hevenor, and *Powell, Fred Wilbur.* The coast guard. Pp. xi+265. Washington: Brookings Institution.

Staley, Eugene. History of the Illinois state federation of labor. Chicago: Univ. of Chicago Press.

Warburg, Paul M. The federal reserve system. 2 vols. N. Y.: Macmillan.

Wiley, Harvey W. The history of a crime against the food law. Washington: The Author.

Willebrandt, Mabel Walker. The inside of prohibition. Indianapolis: Bobbs-Merrill.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Articles

Agricultural Relief. The farm board at work. *Charles W. Holman.* World's Work. Oct., 1929.

———. Agriculture and the changing social order. *Alonzo E. Taylor.* Sat. Eve. Post. Oct. 19, 1929.

———. The logic of the debenture. *Editor.* New Repub. Oct. 30, 1929.

———. Prosperity—believe it or not: V. The farmer's share. *Stuart Chase.* Nation. Dec. 18, 1929.

Amendments. Constitutional amendments proposed at 2nd session of seventieth congress. *Paul H. Giddens.* U. S. Law Rev. Sept., 1929.

Aviation. Trends in aviation legislation. *Harry J. Freeman.* N.Y. Univ. Law Quar. Rev. Sept., 1929.

Bank Deposit Guaranty. State regulation of banks by guaranty of deposits. *A. B. Butts.* Miss. Law Jour. Nov., 1929.

Bill of Rights. Mining and sapping our bill of rights. *Sterling E. Edmunds.* Va. Law Rev. Nov., 1929.

Bingham Case. Professor's progress. *Frederic Nelson.* Nation. Nov. 27, 1929.

Budget. The New York state budget controversy. *Rinehart J. Swenson.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

Business Policy. Hoover plays his part. *Editor.* New Repub. Dec. 11, 1929.

———. Hoover's fillip to business. *Leo Wolman.* Nation. Dec. 11, 1929.

California. The work of the legislature of 1929. *Orrin K. McMurray.* Calif. Law Rev. Sept., 1929.

Censorship. Fear, freedom, and Massachusetts. *H. M. Kallen.* Am. Mercury. Nov., 1929.

Citizenship. United States v. Schwimmer. *Ernst Freund.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

———. The rights and obligations of citizenship under the constitution. *Edmund A. Walsh.* Const. Rev. Oct., 1929.

———. Attachment to the principles of the constitution as judicially construed in certain naturalization cases in the United States. *Henry B. Hazard.* Am. Jour. Int. Law. Oct., 1929.

Civil Service. Classifying the United States civil service. *G. H. Stuart-Bunning.* Pub. Admin. Oct., 1929.

Civil War. Missouri politics during the civil war. *Sceva B. Laughlin.* Mo. Hist. Rev. July, 1929.

Communist Party. Communist "criminals" in California. *Upton Sinclair.* Nation. Nov. 20, 1929.

Constitution. The interrelation of social and constitutional history. *James G. Randall.* Am. Hist. Rev. Oct., 1929.

———. A new approach to the study of the constitution. *H. Arnold Bennett.* Hist. Outlook. Nov., 1929.

Continental Congress. Perquisites of the president of the continental congress. *Edmund C. Burnett.* Am. Hist. Rev. Oct., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Declaratory Judgment. Declaratory and interpretative judgments in Massachusetts. *Henry T. Lummus.* Mass. Law Quar. Aug., 1929.

Democratic Party. Will the democrats follow the whigs? *Silas Bent.* Scribner's. Nov., 1929.

———. The democratic party in Maine. *Lane W. Lancaster.* Nat. Mun. Rev. Dec., 1929.

Due Process. Statutory presumptions and due process of law. *Note Editor.* Harvard Law Rev. Nov., 1929.

Emancipation Proclamation. Bishop Matthew Simpson, the man who inspired the emancipation proclamation. *Clarence True Wilson.* Current Hist. Oct., 1929.

Equal Protection. Equal protection of the laws. *H. S. W.* Mich. Law Rev. Dec., 1929.

Extradition. Interstate rendition—was it meant to be obligatory? *Lyda Gordon Shivers.* Miss. Law Jour. Nov., 1929.

Farmers' Alliance. The farmers' alliance. *John D. Hicks* and *John D. Barnhart.* N. C. Hist. Rev. July, 1929.

Federal Legislation. Federal legislation. *Middleton Beaman* and *Others.* Am. Bar Assoc. Jour. Oct., Nov., 1929.

Federal Reserve System. Is the federal reserve wrong? *David Friday.* Rev. of Revs. Sept., 1929.

Foreign Service. Our foreign service. *Robert Burgher.* Outlook. Nov. 6, 1929.

———. Resurrecting the foreign service. *Editor.* New Repub. Dec. 11, 1929.

Freedom of Press. Fair comment. *John E. Hallen.* Tex. Law Rev. Dec., 1929.

Full Faith and Credit. The full faith and credit required for public acts. *Stephen I. Langmaid.* Ill. Law Rev. Dec., 1929.

Gastonia Case. Gastonia. *Mary Heaton Vorse.* Harper's. Nov., 1929.

———. North Carolina justice. *Frederic Nelson.* New Repub. Nov. 6, 1929.

Hoover. A preface to Hoover. *Edward G. Lowry.* Century. Autumn, 1929.

———. President Hoover—a year after election. *Clinton W. Gilbert.* Rev. of Revs. Nov., 1929.

House of Representatives. Gentlewomen of the house. *Duff Gilfond.* Am. Mercury. Oct., 1929.

Immigration. The merits and demerits of the national origins provisions for selecting immigrants. *J. J. Spengler.* Southwestern Pol. and Sci. Quar. Sept., 1929.

———. The Jay treaty of 1794. *N. A. MacKenzie.* Canadian Bar Rev. Sept., 1929.

———. The second colonization of New England. *Marcus L. Hansen.* New England Quar. Oct., 1929.

———. Our Mexican immigrants. *Glenn E. Hoover.* For. Affairs. Oct., 1929.

———. The antecedents of Mexican immigration to the United States. *Robert Redfield.* Am. Jour. Sociol. Nov., 1929.

———. Criminality and immigration. *Ervin Hacker.* Jour. Crim. Law and Crim. Nov., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Imperialism. The American empire. *Hiram Motherwell.* Forum. Dec., 1929.

Injunction. The use of the labor injunction in the New York needle trades. I. *P. F. Brissenden* and *C. O. Swayzee.* Pol. Sci. Quar. Dec., 1929.

Interior Department. Secretary Wilbur. *William Atherton Du Puy.* World's Work. Nov., 1929.

Judicial Council. Texas civil judicial council. *A. H. McKnight.* Tex. Law Rev. Dec., 1929.

———. National union of judicial councils. Jour. Am. Judicature Soc. Dec., 1929.

Judicial Review. Ours—a government of laws and not of men. *Alpheus T. Mason.* Const. Rev. Oct., 1929.

———. Judicial review of decisions of the Illinois commerce commission. *Elmer A. Smith.* Ill. Law Rev. Dec., 1929.

———. Special organization of the district court in suits to restrain the enforcement of state statutes. *Wortham Davenport.* Tex. Law Rev. Dec., 1929.

Judiciary. The superior court and the neck of the bottle again—1929 model. *Dunbar F. Carpenter.* Mass. Law Quar. Aug., 1929.

Jury System. "Good men and true": the story of the Barkoski trial. *Eston Everett Ericson.* New Repub. Oct. 30, 1929.

———. Should our jury system be modified? *William A. Forsyth, Felix Frankfurter,* and *Others.* Cong. Digest. Nov., 1929.

Lobby. Mr. Shearer likes a big navy. *Robert S. Allen.* Lobbies for loot. *Ruby A. Black.* Nation. Oct. 9, 30, 1929.

———. The pressure of organized interests as a factor in shaping legislation. *Frederick K. Beutel.* South. Calif. Law Rev. Oct., 1929; Com. Law League Jour. Dec., 1929.

———. Lobbyists and power politics. *Editor.* New Repub. Oct. 30, 1929.

———. Lobbyists and lobbygows. *Samuel G. Blythe.* Sat. Eve. Post. Dec. 7, 1929.

Military Training. Militarist bait for students. *Duff Gilfond.* New Repub. Oct. 2, 1929.

———. Military training in the land grant colleges. *Sveinbjorn Johnson.* Ill. Law. Rev. Nov., 1929.

Motor Carrier Regulation. Establishing state regulation of motor carriers. *John J. George.* Southwestern Pol. and Soc. Sci. Quar. Sept., 1929.

Navy Department. Another Adams takes over the helm. *Theodore G. Joslin.* World's Work. Dec., 1929.

Negro Question. The participation of negroes in the government of Virginia from 1877 to 1888. *James Hugo Johnston.* Jour. Negro Hist. July, 1929.

New York. The 1929 legislative session in New York. *Finla G. Crawford.* Am. Pol. Sci. Rev. Nov., 1929.

O'Fallon Case. The O'Fallon case. *William M. Wherry.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

———. St. Louis & O'Fallon railway case. *Hugh E. Willis.* Ind. Law Jour. Nov., 1929.

———. The O'Fallon case. *Wm. M. Wherry.* Com. Law League Jour. Nov., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. The O'Fallon decision—its meaning. *Charles B. Elder.* Ill. Law Rev. Nov., 1929.

———. The O'Fallon case: latest battle in the public utility valuation war. *Gustavus H. Robinson.* N. C. Law Rev. Dec., 1929.

Pardon. Summary of the provisions of the constitution and statutes of the several states relating to pardons. *Ann Neal* and *Beatrice Hager.* Jour. Crim. Law and Crim. Nov., 1929.

Philippines. The necessity of establishing a court of claims in the Philippines. *Modesto R. Ramolete.* Philippine Law Jour. Jan., 1929.

Police Power. Regulation of sale of drugs. *J. C. P.* Calif. Law Rev. Sept., 1929.

Politics. The passing of the old United States. *William E. Dodd.* Century. Autumn, 1929.

———. Plumed knight and turkey-gobbler. *Benjamin DeCasseres.* Jefferson: new style. *Donald Wade.* He hated southern gentlemen. *Lloyd Lewis.* Am. Mercury. Oct., Nov., Dec., 1929.

———. En observant l'Amérique. *Pierre Lyautey.* Rev. Paris. Dec. 1, 1929.

Poor Law Reform. Poor law reform in New York state. *Elsie M. Bond.* Nat. Mun. Rev. Oct., 1929.

Porto Rico. What next in Porto Rico? *Luis Muñoz Marín.* Nation. Nov. 20, 1929.

President. The president's secretaries. *Duff Gilfond.* New Repub. Oct. 9, 1929.

———. The secretariat. *A Washington Correspondent.* Am. Mercury. Dec., 1929.

———. The president gets down to business. *Isaac F. Marcosson.* Sat. Eve. Post. Dec. 21, 1929.

Presidential Elections. Ideology of business men and presidential elections. *Arthur F. Burns.* Southwestern Pol. and Soc. Sci. Quar. Sept., 1929.

Press. La presse et la vie politique aux États-Unis. *Pierre Denoyer.* Rev. Deux Mondes. Oct. 1, 1929.

Price Fixing. New judicial approach to due process and price fixing. *Maurice H. Merrill.* Ky. Law Jour. Nov., 1929.

———. The use of the "public interest" concept in price-fixing cases. *Case and Comment Editor.* Yale Law Jour. Dec., 1929.

Prohibition. The constitutional reasons for the repeal of the prohibition amendment. *Charles Hall Davis.* The eighteenth amendment. *Paul J. Thompson.* Lawyer and Banker. July-Aug., Nov.-Dec., 1929.

———. Anti-prohibition activities of the bar: a justification. *Frederic R. Coudert, Jr.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

———. Progress of prohibition. Round Table. Sept., 1929.

———. The new "civil war" in the United States. *Ignatius Phayre.* Quar. Rev. Oct., 1929.

———. The fallacies of prohibition. *Fabian Franklin.* Forum. Oct., 1929.

———. The states and prohibition. *Rex Maurice Naylor.* New Repub. Oct. 16, 1929.

———. This prohibition wilderness. *Albert C. Ritchie.* Outlook. Oct. 23, 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Prohibition and the future. *Mabel Walker Wildebrandt.* Woman's revolt against prohibition. *Pauline Morton Sabin.* Rev. of Revs. Oct., Nov., 1929.

———. The unholy union of prohibition and politics. *Norman Thomas.* What substitute for prohibition? *William Cabell Bruce.* Benefits of prohibition in Pennsylvania. *Harry M. Chalfant.* Current Hist. Oct., Dec., 1929.

———. The duty of the states in respect of prohibition. *Editor.* U. S. Law Rev. Nov., 1929.

———. When I was mayor: sidelights on prohibition. *Jay E. House.* N. Am. Rev. Nov., 1929.

Public Lands. What about our public lands? *Ray Lyman Wilbur.* Rev. of Revs. Dec., 1929.

———. The new conservation. *Joseph M. Dixon.* Sat. Eve. Post. Dec. 7, 1929.

Public Utilities. The merger movement: integration or combination, especially in its relation to electric utilities. *Matthew S. Sloan.* Century. Autumn, 1929.

———. The New York rapid transit contracts before the supreme court. *John Bauer.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

———. Public utilities—state regulation of foreign holding company. *G. B. C.* Mich. Law Rev. Nov., 1929.

———. Composite demand and joint supply in relation to public utility rates. *Raymond T. Bye.* Quar. Jour. Econ. Nov., 1929.

———. Certificates of convenience and necessity. *Ford P. Hall.* Mich. Law Rev. Dec., 1929.

———. Confiscatory rates and modern finance. *Julius Henry Cohen.* Yale Law Jour. Dec., 1929.

———. The real meaning of the power problem. *Franklin D. Roosevelt.* Forum. Dec., 1929.

Radio Control. Copyright and radio. *W. Jefferson Davis.* Va. Law Rev. Nov., 1929.

———. Federal control of radio broadcasting. *Case and Comment Editor.* Yale Law Jour. Dec., 1929.

Reclamation. Making the American desert bloom. *Elwood Mead.* Current Hist. Oct., 1929.

Registration. The progress of permanent registration of voters. *Joseph P. Harris.* Am. Pol. Sci. Rev. Nov., 1929.

Revolution. "That great litigation." *Marshall Van Winkle.* Am. Bar. Assoc. Jour. Oct., 1929.

———. Aspects of revolutionary finance, 1775-1783. *Ralph V. Harlow.* Am. Hist. Rev. Oct., 1929.

Search and Seizure. Waiver of constitutional guaranty against unreasonable searches and seizures. *Editor.* U. S. Law Rev. Oct., 1929.

Senate. In the senate. *George Wharton Pepper.* Sat. Eve. Post. Nov. 30, 1929.

South. The south's lost leadership. *J. N. Aiken.* Leaders in the desert. *James Southall Wilson.* Va. Quar. Rev. Oct., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

State Constitutions. The sources of the North Carolina constitution of 1776. *Earle H. Ketcham.* N. C. Hist. Rev. July, 1929.

———. Amending a state constitution by custom. *David Y. Thomas.* Am. Pol. Sci. Rev. Nov., 1929.

Stimson. A warrior turns to peace: Henry L. Stimson. *Theodore G. Joslin.* World's Work. Oct., 1929.

Supreme Court. United States supreme court problems. *Gregory Hankin.* Jour. Am. Judicature Soc. Oct., 1929.

———. The business of the supreme court at October term, 1928. *Felix Frankfurter and James M. Landis.* Harvard Law Rev. Nov., 1929.

———. The human side of the supreme court. *J. Frederick Essary.* Scribner's. Nov., 1929.

Tammany. A lesson from New York. *Editor.* New Repub. Oct. 16, 1929.

Taxation. Is a general income tax for Massachusetts a step in the right direction? *Philip Nichols.* Mass., Law Quar. Aug., 1929.

———. The supreme court on accounting methods. *Benjamin Harrow.* Am. Bar Assoc. Jour. Oct., 1929.

———. The new Illinois gas tax law. *James W. Martin.* Nat. Mun. Rev. Oct., 1929.

———. State corporate franchise taxes. *F. E. G.* South. Calif. Law Rev. Oct., 1929.

———. Taxation of motor busses. *W. K. G.* Mich. Law Rev. Nov., 1929.

———. Privilege taxes on corporations having no par value stock. *Note Editor.* Harvard Law Rev. Nov., 1929.

———. Exemption of federal and state securities. *Edward Henry Stiefel.* Cornell Law Quar. Dec., 1929.

———. Federal injunction against discriminatory state tax. *Thomas W. Sprinkle.* N. C. Law Rev. Dec., 1929.

Texas. Apostle of manifest destiny. *Bernard Mayo.* Am. Mercury. Dec, 1929.

Tariff. Moses among the jackasses. *Editor.* New Repub. Nov. 20, 1929.

———. The ol' debbil tariff. *Samuel G. Blythe.* Sat. Eve. Post. Nov. 23, 1929.

Treasury Department. The big cash box. *Will Payne.* Sat. Eve. Post. Dec. 7, 1929.

Trust Problem. Le problème juridique des trusts aux États-Unis. *François Perroux.* Rev. Pol. et Parl. Aug., 1929.

Veto. The governor's approval of legislation in Connecticut. *Walter F. Dodd.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

———. Pocket veto. *J. E. C., Jr.* Va. Law Rev. Nov., 1929.

Wisconsin. The progressive holy land. *Bennington Orth.* Am. Mercury. Nov., 1929.

Workmen's Compensation. Workmen's compensation and the Jones act. *E. J. M.* Ill. Law Rev. Nov., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Amann, Gustav. The legacy of Sun Yat-Sen: a history of the Chinese revolution. Pp. 314. N. Y.: Louis Carrier.

Andreades, A., and *Others.* Les effets économiques et sociaux de la guerre en Grèce. Pp. 324. New Haven: Yale Univ. Press.

Angell, James W. The recovery of Germany. New Haven: Yale Univ. Press.

Arthur, G. King George V: a sketch of a great ruler. Pp. 360. London: Cape.

Baikaloff, Anatole V. In the land of communist dictatorship. London: Cape.

Bartlett, G. E. Ashmead. The riddle of Russia. London: Cassell.

Bergsträsser, Ludwig. Die preussische Wahlrechtsfrage im Kriege und die Entstehung der Osterbotschaft 1917. Pp. 164. Tübingen: J. C. B. Mohr.

Bibby, J. P. Unemployment: an analysis and suggested solution. Pp. 136. London: King.

Bigham, Clive. The kings of England, 1066-1901. London: Murray.

Botha, C. Graham. The public archives of South Africa, 1652-1910. Pp. ix+108. Cape Town: Cape Times.

Bratter, Herbert Max. Public finances of far eastern countries. (U.S. Dept. of Commerce, Trade Promotion Series, no. 83.) Pp. 103. Washington: Govt. Printing Office.

Broucke, Jeanne. L'empire arabe d'Ibn Séoud. Bruxelles: Falk fils.

Calker, Fritz van. Grundzüge des deutschen Staatsrechts. Pp. vi+111. München: C. H. Becksche Verlagsbuchhandlung.

Carroll, Mollie Ray. Unemployment insurance in Germany. Pp. 147. Washington: Brookings Institution.

Cederholm, Boris. In the clutches of the tcheka. (Translated from the Russian by F. H. Lyon.) Pp. 349. London: Allen & Unwin.

Chiurco, C. A. Storia della rivoluzione fascista. 5 vols. Florence: Vallecchi.

Chopra, Gulshan Lall. The Punjab as a sovereign state (1799-1839.) Pp. xii+352. Lahore: Uttar Chand Kapur & Sons.

Chudgar, P. L. Indian princes under British protection. London: Williams & Norgate.

Clemenceau, Georges. In the evening of my thought. 2 vols. Pp. 482; 525. Boston: Houghton Mifflin.

Craddock, Sir Reginald. The dilemma in India. Pp. xix+379. London: Constable.

Dawson, E. The civil service of Canada. Pp. 266. London: Oxford Press.

Dendias, M. Le problème de la chambre haute et la représentation des intérêts à propos de l'organisation du sénat grec. Pp. 464. Paris: Boccard.

Dillon, E. J. Russia today and yesterday. London: Dent.

Douillet, Joseph. Moskau ohne Maske. Pp. xii+224. Berlin: Verlag für Kulturpolitik.

Dreiser, Theodore. Sowjet-Russland. Pp. 313. Berlin: Paul-Zsolnay-Verlag.

Emhardt, William C. Religion in soviet Russia. Pp. 405. Milwaukee: Morehouse.

"Ephesian." Philip Snowden: an impartial study. London: Cassell.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Gentizon, Paul. Mustapha Kemal ou l'orient en marche. Paris: Bossard.

Graham, Evelyn. Albert: king of the Belgians. N. Y.: Dodd, Mead.

Gwynn, Denis. Daniel O'Connell: the Irish liberator. Pp. 288. London: Hutchinson.

Hamilton, Mary Agnes. J. Ramsay MacDonald. Pp. 305. London: Cape.

Harms, Bernhard, ed. Reich und Staat im neuen Deutschland. 2 vols. Berlin: Hobbing.

Hoetzsch, Otto. Germany's domestic and foreign policies. (Institute of Politics Publication.) New Haven: Yale Univ. Press.

Hwamgjen, M. Le régime des concessions en Russie soviétique. Pp. 112. Paris: Gamber.

Jászi, Oscar. The dissolution of the Habsburg monarchy: a failure in civic training. Chicago: Univ. of Chicago Press.

Keith, A. Berriedale. The sovereignty of the British dominions. Pp. xxvi+524. London: Macmillan.

Landau, Rom. Pilsudski and Poland. N. Y.: Dial Press.

Latham, J. G. Australia and the British commonwealth. Pp. xii+150. London: Macmillan.

Luehr, Elmer. The new German republic. N. Y.: Minton, Balch.

Malatesta, M. Dall'impero degli zar al governo dei sovieti. Rome: Tiber.

Mallet, Sir Bernard, and *George, C. Oswald.* British budgets: second series, 1913-14 to 1920-21. Pp. xxii+410. London: Macmillan.

Mella, Jean. Mustapha Kemal, ou la rénovation de la Turquie. Paris: Fasquelle.

Nevinson, H. W. England's voice of freedom. Pp. 304. London: Gollancz.

Newton, Lord. Lord Lansdowne. London: Macmillan.

Niemann, Alfred. Kaiser und Heer. Pp. 416. Berlin: Verlag für Kulturpolitik.

Nipperdey, Hans Carl. Die Grundrechte und Grundpflichten der Reichsverfassung. I. Band. Pp. x+412. Berlin: Reimar Hobbing.

O'Briain, Barra. The Irish constitution. Dublin: Talbot Press.

Oldenbourg, Serge. Le coup d'état bolchéviste. Pp. 527. Paris: Payot.

Park, No Yong. Making a new China. Boston: Stratford Co.

Plummer, A. Labour's path to power. Pp. 150. London: Richards Press.

Price, George M. Labor protection in soviet Russia. Pp. 128. London: Modern Books.

Reis, Charles. A history of the constitution or government of Trinidad. 2 vols. Trinidad: The Author's Press.

Roberts, Stephen H. History of French colonial policy, 1870-1925. 2 vols. London: King.

Sapre, B. G. The growth of Indian constitution and administration. Pp. xii+548. Sangli (India): Bombay Press.

Scheidemann, Philipp. Philipp Scheidemann: the autobiography of the maker of new Germany. 2 vols. N. Y.: Appleton.

Schlosberg, H. J. The king's republics. Pp. xx+147. London: Stevens.

Strachey, Ray. "The cause"; a short history of the women's movement in Great Britain. Pp. 429. London: Bell.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Swire, J. Albania: the rise of a kingdom. London: Williams & Norgate.

Trentin, Silvio. Les transformations récentes du droit public italien. De la charte de Charles Albert à la création de l'état fasciste. Paris: Giard.

Tyler, W. F. Pulling strings in China. London: Constable.

Articles

Administration. The emergence of public administration. *Leonard D. White.* Pub. Management. Oct., 1929.

Albania. King Zog modernizing Albania. *Nelo Drizari.* Current Hist. Nov., 1929.

Australia. Australia. II. The Queensland elections. Round Table. Sept., 1929.

———. Capacity of Australia for immigration. *J. W. Gregory.* Contemp. Rev. Oct., 1929.

———. Australian experiments in state socialism. *F. W. Eggleston.* Edin. Rev. Oct., 1929.

———. Labor in Queensland. *Carter Goodrich.* Nation. Oct. 30, 1929.

Austria. Pourquoi Mgr. Seipel a abandonné le pouvoir. *Pierre Waline.* Correspondant. Sept. 10, 1929.

———. L'idée autrichienne. *Mgr. Seipel.* Rev. Bleue. Sept. 21, 1929.

———. The fall of Austria: after ten years. *Sir James Headlam-Morley.* Atlan. M. Oct., 1929.

———. Austria in troubled waters. *G. E. R. Gedye.* Contemp. Rev. Nov., 1929.

———. Austria faces her crisis. *G. E. R. Gedye.* Nation. Nov. 13, 1929.

———. Underlying causes of political crisis in Austria. *Benjamin Steg.* Current Hist. Dec., 1929.

Baltic States. Dans les pays du nord. I. Les nouveaux états baltes. *J. de Coussange.* Correspondant. Nov. 25, 1929.

Belgium. Nach den belgischen Wahlen. *Emile Vandervelde.* Nord und Süd. July, 1929.

———. La situation politique en Belgique. *Jules Garson.* Rev. Pol. et Parl. Sept., 1929.

British Empire. Developments in east and central Africa. *Montague Barlow.* Nat. Rev. Mar., 1929.

———. Commonwealth and crown. *H. T. Postle.* Australian Law Jour. Aug., 1929.

———. Review of legislation. *F. P. Walton, Cecil T. Carr,* and *Others.* Jour. Comp. Legis. and Int. Law. Aug., 1929.

———. The meaning of imperial trusteeship. *Lord Olivier.* British policy in Africa. *Norman de V. Hart.* Economic organization and development of empire. *Sir Robert Hadfield.* Contemp. Rev. Sept., Oct., Nov., 1929.

———. Imperial economic co-operation. *F. L. McDougall.* English Rev. Oct., 1929.

———. A study of the commonwealth. *Sir R. L. Borden.* Canadian Bar Rev. Nov., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Bulgaria. Bulgaria's stormy history since the world war. *Theodore Geshkoff.* Current Hist. Oct., 1929.

Canada. Representation by the act of union of 1840. *G. de T. Glazebrook.* The fate of titles in Canada. *D. W. Thomson.* Canadian Hist. Rev. Sept., 1929.

———. Canada. I. The Canadian diplomatic service. Round Table. Sept., 1929.

———. Uniformity of laws in Canada. *R. W. Shannon.* Eligibility of women for the senate. *G. F. Henderson.* Canadian Bar Rev. Oct., Nov., 1929.

———. The Canadian liquor system. I. Evils of government control. *Alfred Edward Cooke.* II. Success of system based on common sense. *Carleton Stanley.* III. The case against regulation and control. *Ernest H. Cherrington.* Canada's loyalty to the king. *Milledge L. Bonham, Jr.* Current Hist. Oct., Nov., 1929.

China. The duel in China. *Editor.* New Repub. Oct. 23, 1929.

———. The Nanking government. *T. A. Bisson.* For. Pol. Assoc. Inf. Service. Oct. 30, 1929.

———. Why China fights. *Louis Fischer.* Nation. Dec. 11, 1929.

Civil Service. The civil service and the modern state: discipline and rights. *Herman Finer.* Pub. Admin. Oct., 1929.

Cuba. Dictatorship in Cuba. *Editor.* New Repub. Oct. 2, 1929.

Czechoslovakia. The political crisis in Czechoslovakia. *Frederic A. Ogg.* Current Hist. Nov., 1929.

Denmark. Ce que pense la jeunesse européenne. XIII. Danemark. *A. Bindslev.* Rev. Sci. Pol. July-Sept., 1929.

———. Forbud, set fra etisk og folkepsykologisk Synspunkt. *J. Byskov.* Gads Danske Mag. Oct., 1929.

Financial Administration. Some aspects of financial administration. *J. de Villiers Roos.* Pub. Admin. Oct., 1929.

France. Jurisprudence du conseil d'état sur les avantages personnels attachés à la fonction publique. *Gaston Jèze.* Pouvoirs du gouvernement en matière de ratification des traités relatifs aux finances publiques. *Gaston Jèze.* Rev. Droit Pub. et Sci. Pol. July-Sept., 1929.

———. Elsass-Lothringen. *Fritz Jaffé.* Deutsche Arbeit. July, Sept., 1929.

———. Le ministère de l'air et l'aviation d'état. *Le Coq de Kerland.* Les impôts sur les revenus. XXX. Léon Bourgeois. *Marcel Charlot.* Rev. Pol. et Parl. Aug., Sept., 1929.

———. Briand—greatest of pinch-hitters. *Frank H. Simonds.* Rev. of Revs. Sept., 1929.

———. Die französische sozialistische Partei. *Pierre Renaudel.* Briand. *Graf Carlo Sforza.* Nord und Süd. Oct., 1929.

———. Poincare's Politik. *Hans Delbrück.* Preuss. Jahrbücher. Oct., 1929.

———. Problème alsacien ou problème français? *Michel Réville.* Grande Rev. Oct., 1929.

———. L'Afrique equatoriale française en 1929. *Anselme Laurence.* Rev. *Mondiale.* Oct. 1, 1929.

———. Problèmes d'enseignement colonial. *Georges Hardy.* Avant la rentrée des chambres. *Ignotus.* Refléxions sur l'élite politique. *Maurice Colrat.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Finances et majorité. *Marcel Lucain.* L'expérience de M. Daladier. *Fernand de Brinon.* Rev. Paris. Sept. 15, Oct. 15, Nov. 1, 15, 1929.

———. Aristide Briand, member of twenty-one French cabinets. *Jules Bois.* Parliamentary groups in France. *Lindsay Rogers.* Tardieu becomes premier of France. *Raymond Turner.* Current Hist. Dec., 1929.

Germany. Zehn Jahre Weimarer Verfassung. *Joh. Victor Bredt.* Nord und Süd. Aug., 1929.

———. The position of civil servants in Germany. *Frederick F. Blachly* and *Miriam E. Oatman.* Southwestern Pol. and Soc. Sci. Quar. Sept., 1929.

———. The German party system. *James K. Pollock, Jr.* Am. Pol. Sci. Rev. Nov., 1929.

———. La politique économique de l'Allemagne. *E. von Borsieg.* Rev. Mondiale. Nov. 1, 1929.

———. Relation of the German judiciary to the executive and legislative branches. *Walter C. Simons.* Am. Bar Assoc. Jour. Dec., 1929.

Great Britain. Economic Policy. Pulling Britain out. *Wickham Steed.* Rev. of Revs. Sept., 1929.

———. Empire free trade. *R. M. Campbell.* The public regulation of wages in Great Britain. *H. Clay.* Econ. Jour. Sept., 1929.

———. A review of unemployment remedies. *R. C. Davison.* The election and the licensing commission. *Isaac Foot.* Public credit and unemployment. *Sir E. Hilton Young.* Contemp. Rev. Sept., Oct., Nov., 1929.

———. Trades unionism: 1929 and after. *W. F. Watson.* Fort. Rev. Oct., 1929.

———. Les remèdes contre le chomage en Angleterre. *Thomas Greenwood.* Rev. Mondiale. Nov. 15, 1929.

———. **Electoral Reform.** Electoral reform. *Ramsay Muir.* Contemp. Rev. Sept., 1929.

———. A plea for the majority vote. *Sir E. Hilton Young.* Another aspect of voting reform. *N. W. Clayton.* Nine. Cent. Sept., Oct., 1929.

———. **Government.** The house of lords under Charles II. Part I. *A. S. Turberville.* The circular letters: an eighteenth-century whip to members of parliament. *L. B. Namier.* English Hist. Rev. July, Oct., 1929.

———. En ny Epoke i engelsk Parlamentarisme. *Holger Angelo.* Gads Danske Mag. Sept., 1929.

———. Democracy and the crown. *W. G. Carlton Hall.* The reform of the house of lords. *E. M. C Denny.* English Rev. Sept., Oct., 1929.

———. The house of lords, 1689-1783. II. *Sir W. S. Holdsworth.* Law Quar. Rev. Oct., 1929.

———. The British civil service and the trade union act of 1927. *J. H. Macrae-Gibson.* Am. Pol. Sci. Rev. Nov., 1929.

———. House of lords reform since 1911. *Eugene Parker Chase.* Pol. Sci. Quar. Dec., 1929.

———. First impressions of a new M. P. *Mary Agnes Hamilton.* Harper's. Dec., 1929.

———. Scots and Welsh demand for home rule. *Ruaraidh Erskine of Marr.* Current Hist. Dec., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. The home office—what it is; and the home secretary—what he is. *Lord Brentford.* Sat. Eve. Post. Dec. 7, 1929.

Politics. Das Ergebnis der englischen Wahlen. *Mary Agnes Hamilton.* Nord und Süd. July, 1929.

———. Les élections générales en Angleterre. *Paul Vaucher.* Rev. Sci. Pol. July, Sept., 1929.

———. Great Britain: the general election. Round Table. Sept., 1929.

———. The liberal summer school. *E. D. Simon.* Liberalism and the new parliament. *R. Hopkins Morris.* Contemp. Rev. Sept., 1929.

———. Die beiden England. *M. J. Bonn.* Neue Rundschau. Oct., 1929.

———. The task of the opposition. *Robert Boothby.* English Rev. Oct., 1929.

———. Ramsay MacDonald. *Elizabeth Glendower Evans.* Atlan. M. Oct., 1929.

———. The new test for British labor. *Harold J. Laski.* For. Affairs. Oct., 1929.

———. Die Labourregierung im Spiegel der Kritik ihrer Partei. *Balthasar Weingartz.* Sozialistiche Monatschefte. Oct., 1929.

———. Labour policy and prospects. *J. H. Harley.* Fort. Rev. Nov., 1929.

———. The future of the conservative party. *Sir Charles Petrie.* Nine. Cent. Nov., 1929.

———. The British political scene since the election. *Roger H. Soltau.* Am. Pol. Sci. Rev. Nov., 1929.

Greece. Venizelos again supreme in Greece. *Hamilton Fish Armstrong.* For. Affairs. Oct., 1929.

Hungary. Hungary since 1918. *C. A. Macartney.* Slavonic & East European Rev. Mar., 1929.

———. Graf Julius Andrassy. *Ludwig Stein.* Nord und Süd. July, 1929.

India. Les états indigènes de l' Inde. *W. Ivor Jennings.* Rev. Droit Int. et Légis. Comp. No. 3, 1929.

———. Das indische Rätsel. *L. F. Rushbrook-Williams.* Revolution in Indien? *Wolfgang von Wiesl* u. *Ayi Tendulkar.* Nord und Süd. July, Aug., Sept., 1929.

———. Les difficultés de la situation aux Indes. *L. F. Rushbrook-Williams.* Rev. Bleue. Aug. 18, 1929.

———. The Indian states. *W. S. Holdsworth.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

———. The economics of Indian unrest. *Sir Basil Blackett.* For. Affairs. Oct., 1929.

———. Indian problems. *Lord Sydenham of Combe.* English Rev. Oct., 1929.

———. Mahatma Gandhi. *Fritz Diettrich.* Deutsche Rundschau. Oct., 1929.

———. Illiteracy and self-government in India. *C. F. Strickland.* Edin. Rev. Oct., 1929.

———. Justice for India? *H. N. Brailsford.* New Repub. Nov. 27, 1929.

———. India's educational rebellion. *James H. Cousins.* India's demand for dominion status. *Ralston Hayden.* Current Hist. Dec., 1929.

Ireland. Ireland: events in the free state. Round table. Sept., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Italy. Italy's seven years under Mussolini. *Carleton Beals.* Current Hist. Dec., 1929.

Japan. Industrial revolution in Japan. *M. D. Kennedy.* Fort. Rev. Nov., 1929.

———. Formosa—Japan's experiment. *K. K. Kawakami.* Atlan. M. Dec., 1929.

Jugoslavia. En Yougoslavie: un roi qui gouverne. *Albert Mousset.* Rev. Hebdom. Feb. 16, 1929.

———. Ce que pense la jeunesse européenne. XIV. Yougoslavie. *J. Giaja.* Rev. Sci. Pol. July-Sept., 1929.

———. Yugoslav crisis a result of Croats' discontent under Serbian domination. *Milan Billich.* Current Hist. Oct., 1929.

———. A tale of two pigs: Serbian discontents. *Herbert B. Elliston.* Atlan. M. Dec., 1929.

Latin America. Latin America in the twentieth century. *W. A. Hirst.* Contemp. Rev. Sept., 1929.

Liquor Problem. La lutte contre la prohibition. *Anselme Laurence.* Rev. Mondiale. Aug. 1, 1929.

———. How Europe handles the liquor problem. *T. R. Ybarra.* World's Work. Dec., 1929.

Mexico. La lutte religieuse au Mexique et la pacification. *A. Lugan.* Correspondant. Sept. 25, 1929.

———. Die soziale Verfassungsgesetzgebung Mexikos. *Rudolf Aladár Métall.* Zeitschrift für vergleichende Rechtswissenschaft. XLV. Band I. Heft (1929).

———. Mexico's president reviews his administration. *Charles W. Hackett* Current Hist. Oct., 1929.

———. Mexico's proposed labor code. *Frederick Wright.* Teaching a nation to live. *James F. Jenkins.* Rev. of Revs. Dec., 1929.

———. Mexico's new leader. *Carleton Beals.* New Repub. Dec. 11, 1929.

New Zealand. New Zealand: the task before Sir Joseph Ward. Round Table. Sept., 1929.

Nicaragua. Nicaragua's centuries of strife and bloodshed. *James E. Edmonds.* Current Hist. Nov., 1929.

Norway. Valgordningen. *Carl Jacob Arnholm.* Samtiden. No. 3, 1929.

Poland. Die weissrussische Frage in Polen. *Hasso v. Wedel.* Preuss. Jahrbücher. Aug., 1929.

———. L'année 1920 par le maréchal Pilsudski. *Commandant Teslar.* Rev. Bleue. Aug. 3, 1929.

Roumania. Die neue Wirtschaftspolitik Rumäniens. *Virgil Madgearu.* Nord und Süd. July, 1929.

———. Un homme nouveau en Roumanie: J. Maniu. *Paul Pavel.* Le développement politique et social de la Roumanie. *Paul Pavel.* Rev. Mondiale. July 1, Sept. 15, 1929.

———. The new régime in Roumania. *H. Charles Woods.* Fort. Rev. Sept., 1929.

Russia. La ruine morale au pays de soviets. II. Le désastre de l'instruction publique. *Comte Kotovtzoff.* Au palais Alexandre après le départ de l'em-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pereur. *Georges Loukomski.* La vérité sur la tragédie d'Ekaterinbourg. I. Les faits. II. Les responsabilités. *Comte Kokovtzoff.* Rev. Deux Mondes. Aug. 1, 15, Oct. 1, 15, 1929.

———. Les maisons de correction et de travail en Russie. *B. Outiewski.* Rev. Mondiale. Aug. 15, 1929.

———. La révision de la constitution soviétique. *B. Mirkine-Guetzévitch.* Rev. Pol. et Parl. Sept., 1929.

———. Young Russia. Round Table. Sept., 1929.

———. Bolshevismens Kræskader. *P. Östrup.* Gads Danske Mag. Sept., 1929.

———. Financing soviet Russia. *Alzada Comstock.* Fort. Rev. Sept., 1929.

———. Nature de l'organisation soviétique gouvernementale et sociale. *A. Resanov.* Mercure de France. Sept. 15, 1929.

———. Communism by compromise. *J. F. Rudow.* Outlook. Oct. 30, 1929.

———. Liberty in the soviet state. The tragedy of the Russian intelligentsia. *William Henry Chamberlin.* Atlan. M. Oct., Nov., 1929.

———. Soviet Russia as seen by two eminent American educators: I. A historian's impressions of a new world power. *Albert Bushnell Hart.* II. The problem of educating the masses. *Paul Monroe.* Soviet places new burden on workers. *Edgar S. Furniss.* The grain war in soviet Russia. *Alzada Comstock.* Current Hist. Oct., Dec., 1929.

———. Den russiske Kirke og Sovjetregeringen. *Ad. Stender Petersen.* Tilskueren. Nov., 1929.

———. The Russian communist party. *Samuel N. Harper.* Am. Pol. Sci. Rev. Nov., 1929.

———. Ricordi della rivoluzione russa. III. *Nicola de Baumgarten.* Nuova Antologia. Nov. 1, 1929.

———. Russia from a car window. I. II. III. IV. V. VI. *Oswald Garrison Villard.* Nation. Nov. 6, 13, 20, 27, Dec. 4, 11, 1929.

———. Russia marks time. Prisoners of utopia. *George Sylvester Viereck.* Sat. Eve. Post. Nov. 30, Dec. 14, 1929.

———. Observations on present-day Russia. *Paul Monroe* and *Others.* Int. Conciliation. Dec., 1929.

South Africa. The civil jurisdiction of the supreme court of South Africa *Walter Pollak.* South African Law Jour. Aug., 1929.

———. South Africa. I. The general election. The South African native's point of view. Round Table. Sept., 1929.

———. Is South Africa anti-British? *L. E. Neame.* Fort. Rev. Sept., 1929.

———. South Africa after the elections. *Jan H. Hofmeyer.* For. Affairs. Oct., 1929.

Spain. The corregidor in Spanish colonial administration. *C. E. Castañeda.* Hisp. Am. Hist. Rev. Nov., 1929.

———. Valeriano Weyler, Spain's veteran soldier-statesman. *Pierre Crabitès.* Alfonso's responsibility for Rivera's dictatorship. *Abbé Alphonse Lugan.* Current Hist. Nov., Dec., 1929.

Sweden. Regerings problemets svårigheter. *Nils Herlitz.* Svensk Tidskrift. No. 3, 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Det svenska Socialdemocrati. *Johannes Lehman.* Tilskueren. No. 5, 1929.

Switzerland. De la compétence des cantons suisses de conclure des traités internationaux spécialement concernant la double imposition. *Edouard His.* Rev. Droit Int. et Légis. Comp. No. 3, 1929.

Turkey. Turkey revisited. *Arnold J. Toynbee.* Contemp. Rev. Oct., 1929.

———. Dictatorship and reforms in Turkey. *Halidé Edib.* Yale Rev. Autumn, 1929.

INTERNATIONAL RELATIONS

Books

Bellquist, Eric Cyril. Some aspects of the recent foreign policy of Sweden. Berkeley: Univ. of Calif. Press.

Benjamin, René. Les augures de Génève. Paris: Fayard.

Blakeslee, George H. The Pacific area: an international survey. Pp. 224. World Peace Foundation Pamphlets. Vol. XII, no. 3 (1929).

Bomli, P. C. L'affaire de Mossoul. Pp. 252. Amsterdam: Ed. Paris.

Cahen-Salvador, Georges. Les prisonniers de guerre, 1914-1919. Paris: Payot.

Cardahi, C. Le problème de l'organisation judiciaire dans le pays du Levant placés sous mandat français. Paris: Sirey.

Cassel, Gustav, and *Others.* Foreign investments. Chicago: Univ. of Chicago Press.

Conwell-Evans, T. P. The league council in action. Pp. xi+291. London: Oxford Press.

Coudenhove-Kalergi, Richard N. Pan-Europe. Pp. xix+215. N. Y.: Knopf.

D'Abernon, Lord. An ambassador of peace. Vol. II. The years of crisis. London: Hodder & Stoughton.

Daszynski, S., et *Radopolski, J.* Impérialisme contre communisme. Le complot économique, diplomatique et militaire contre l'U.R.S.S. Pp. 272. Paris: Bureau d'Editions.

Davenport, Frances G. European treaties bearing on the history of the United States and its dependencies. Pp. 392. Washington: Carnegie Institution.

Dewey, A. Gordon. The dominions and diplomacy: the Canadian contribution. 2 vols. London: Longmans.

Fox, H. W. The religious basis of world peace. London: Williams & Norgate.

Gay, George I., and *Fisher, H. H.* Public relations of the commission for relief in Belgium. 2 vols. Stanford Univ. Press.

Ghiraldo, Alberto. La lucha contra el imperialismo. Pp. 214. Madrid: Edition Historia Neuva.

Grattan, C. Hartley. Why we fought. N. Y.: Vanguard Press.

Grotkopp, Wilhelm. Amerikas Schutzzollpolitik and Europa. Pp. xii+318. Berlin: Walther Rothschild.

Gwynn, Stephen, ed. Letters and friendships of Sir Cecil Spring-Rice. 2 vols. Boston: Houghton Mifflin.

Hjelholt, Holger. Treitschke und Schleswig-Holstein. Der Liberalismus und

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

die Politik Bismarcks in der schleswig-holsteinischen Frage. Pp. 271. München: R. Oldenbourg.

Henry Coüannier, André. Éléments créateurs du droit aérien. Pp. iv+343. Paris: Per Orbem.

Hewins, W. A. S. The apologia of an imperialist. 2 vols. Pp. xvi+312; 357. London: Constable.

Howland, Charles P., ed. American foreign relations, 1929. (Council on Foreign Relations.) New Haven: Yale Univ. Press.

Huddleston, Sisley. Europe in zigzags. Philadelphia: Lippincott.

Jessup, Philip C. The United States and the world court. Pp. 159. World Peace Foundation Pamphlets. Vol. XII, no. 4 (1929).

Jones, Chester Lloyd, Norton, Henry Kittredge, and *Moon, Parker Thomas.* The United States and the Caribbean. Chicago: Univ. of Chicago Press.

Jouet, Alphonse. Le problème de l'Anschluss (du Danube à la Meuse). Paris: Peyronnet.

Knauss, A. La guerre hors la loi. Pp. 264. Paris: Spes.

Kohn, Hans. A history of nationalism in the east. (Translated by Margaret M. Green.) Pp. xi+476. London: Routledge.

Korowin, E. A. Das Völkerrecht der Übergangszeit. Pp. 142. Berlin: Walther Rothschild.

Laporte, Henri. Le premier échec des rouges, Russie, Finlande. Paris: Payot.

Lewinsohn, Richard. The mystery man of Europe: the career of Sir Basil Zaharoff. Philadelphia: Lippincott.

Lysen, A. Le pacte Kellogg: documents concernant le traité multilatéral contre la guerre. Leyde: Sijthoff.

Magrini, L. Il dramma di Seraievo. Pp. 250. Milan: Athena.

Manni, Ercole. Il problema della nazionalità. Pp. 153. Modena: Soc. Tip. Modenese.

Memoirs of General Wrangel, The. (Translated by S. F. Goulston.) London: Williams & Norgate.

Michon, Georges. The Franco-Russian alliance, 1891-1917. (Translated by Norman Thomas.) London: Allen & Unwin.

Militch, Milenko. Les attributions communes et les rapports du conseil et de l'assemblée de la société des nations. Pp. iv+316. Paris: Pedones.

Möller, Heinrich A., u. *Wolff, Harri.* Handbuch der internationalen Rechtsverfolgung. Berlin: Carl Heymann.

Moore, Thomas Ewing. Peter's city: an account of the origin, development, and solution of the Roman question. Pp. 284. London: Harding & More.

Morgenthau, Henry. I was sent to Athens. Pp. 327. N. Y.: Doubleday, Doran.

Motherwell, Hiram. The imperial dollar: an outline of America's progress toward world dominion. N. Y.: Brentano's.

Oertzen, Karl L. von. Rüstung und Abrüstung. Pp. 303. Berlin: Mittler.

Ohnesseit, Wilhelm. Im Reichsdienst in Osteuropa. Pp. 258. Berlin.: Georg Stilke.

Recouly, Raymond. Foch and the world war. N. Y.: Appleton.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Reuterskjöld, C. A. Folkrätt särskilt såsom svensk publik internationell rätt. 2 vols. Pp. viii+168; xii+169-288. Upsala & Stockholm.

Rouček, Joseph S. The working of the minorities system under the league of nations. Prague: Orbis Pub. Co.

Rudesco, C. A. Étude sur la question des minorités de race, de langue et de religion. Pp. 184. Lausanne: Payot.

Scala, Otto Erwin v. Die wirtschaftlichen Vorteile des Anschlusses. Wien: Wilhelm Braumüller.

Schiff, Victor. So war es in Versailles. Pp. 168. Berlin: Dietz.

Schubert, Wilhelm F. Völkerbund und Staatssouveränität. Pp. 128. Berlin: Carl Heymann.

Seligsohn, Franz. Internationale Überinkommen über den Eisenbahnfrachtverkehr. Pp. xvi+751. Berlin: Walther Rothschild.

Sivori, Juan B. La liga de las naciones, su origen y la obra realizada en la republica Argentina. Pp. 588. Buenos Aires: Roldán.

Sorel, Jean-Albert. Le mandat français et l'expansion économique de la Syrie et du Liban. Pp. 260. Paris: Giard.

Stratton, George Malcolm. Social psychology of international conduct. N. Y.: Appleton.

Szilassy, J. de Traité pratique de diplomatie moderne. Pp. 255. Paris: Payot.

Ter Meulen, Jacob. Der Gedanke der internationalen organisation in seiner Entwicklung. Zweiter Band. 1789-1889. Erstes Stück. 1789-1870. Pp. 371. Der Haag: Nijhoff.

Thompson, Warren S. Danger spots in world population. Pp. 343. N. Y.: Knopf.

Torriente, Cosme de la. Cuba y los Estados Unidos. Pp. xlv+317. Havana: Rambla, Bouza & Ca.

Traz, Robert de. L'esprit de Génève. Paris: Grasset.

Tsonitch, Stanoyé V. L'admission dans la société des nations. Pp. 192. Paris: Jouve.

Van Royen, J. H. Die Rechtspositie en de Volkenrechtelijke Erkenning van nieuwe Staten en de Facto-Regeeringen. Pp. xvi+221. The Hague: Nijhoff.

Vulliamy, C. E., ed. The red archives: Russian state papers and other documents relating to the years 1915-1918. (Translated by A. L. Hynes.) Pp. 320. London: Bles.

Weil, Bruno. Die deutsch-französischen Rechtsbeziehungen vom Kriegsanfang bis zur Gegenewart. Berlin: Carl Heymann.

Wheeler-Bennett, J. W., and *Fanshawe, Maurice.* Information on the world court. London: Allen & Unwin.

Winkler, Max. Investments of United States capital in Latin America. Pp. 297. World Peace Foundation Pamphlets. Vol. XI, no. 6 (1928).

Wright, Quincy. Mandates under the league of nations. Chicago: Univ. of Chicago Press.

Young, C. Walter. The international relations of Manchuria. Chicago: Univ. of Chicago Press.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Articles

Adriatic. Italien und Jugoslawen in der Adria. *Harold E. Roos.* Europäische Gespräche. Oct., 1929.

Aërial Law. L'aviation postale, ses progrès et son avenir. *Maurice Lewandowski.* Rev. Deux Mondes. Aug. 15, 1929.

———. Le droit aerien. *Pierre Frank.* Canadian Bar Rev. Oct., 1929.

———. Der Kampf um die Luft. *Hugo Eckener, Ernst Kabisch,* u. *Andere.* Süddeutsche Monatschefte. Oct., 1929.

American Foreign Policy. L'Amérique et l'Europe. *Elihu* Root. Rev. Mondiale. Aug. 15, 1929.

———. Europe and America. *Norman Angell.* Liv. Age. Sept. 1, 1929.

———. Toward a foreign policy. *Pierre Crabitès.* Va. Quar. Rev. Oct., 1929.

———. L'Amérique d'aujourd'hui prédite en 1777. *E. Meyer.* Grande Rev. Oct., 1929.

———. Les États-Unis dans le monde d'aujourd'hui. *Georges Lechartier.* L'Esprit Int. Oct., 1929.

———. L'opinion américaine et M. Briand. *Louis J. A. Mercier.* Rev. Bleue. Nov. 2, 1929.

———. President Hoover and the orient. *C. F. Andrews.* New Repub. Dec. 4, 1929.

Anglo-American Relations. Minds across the sea. *Wickham Steed.* Liv. Age. Sept. 15, 1929.

———. England and America. An Anglo-American entente. *Editor.* New Repub. Oct. 9, 23, 1929.

———. England looks towards America. *S. K. Ratcliffe.* Yale Rev. Autumn, 1929.

———. The American middle-westerner looks at Great Britain. *W. T. Morgan.* Contemp. Rev. Nov., 1929.

———. The new entente: some political consequences of the Anglo-American understanding. *J. M. Kenworthy.* Fort. Rev. Nov., 1929.

———. Anglo-American amenities. *Frank H. Simonds.* Rev. of Revs. Nov., 1929.

Anschluss. Obstacles to the union of Austria with Germany. *Leo Pasvolsky.* Current Hist. Dec., 1929.

Arbitration. La natura guiridica dell 'arbitrato internazionale. *G. Balladore Pallieri.* Rev. Diritto Int. July-Sept., 1929.

———. The pan-American arbitration treaty. *William T. Stone.* For. Pol. Assoc. Inf. Service. Nov. 13, 1929.

Armenia. The settlement of the Armenians. *Joseph Burtt.* Contemp. Rev. Sept., 1929.

Balkans. The peace of the Balkans. *Robert Machray.* Fort. Rev. Nov., 1929.

———. Balkanomania. *Stanley Casson.* Atlan. M. Nov., 1929.

———. L'entente et les Balkaniques aux premiers mois de la guerre. *Albert Pingaud.* Rev. Deux Mondes. Nov. 1, 1929.

Blockade. Food-ships and the blockade. *Editor.* New Repub. Nov. 20, 1929.

Bolivia. Bolivia's international problems. *Henry Grattan Doyle.* Current Hist. Dec., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Bolivia-Paraguay. Le conflit entre la Bolivie et le Paraguay à propos du Chaco boréal. *Higinio Arbo.* Rev. Gén. Droit Int. Pub. July-Oct., 1929.

British Foreign Policy. König Eduard VII. und die auswärtige Politik Englands. *Alfred Stern.* Europäische Gespräche. Sept., 1929.

———. L'Angleterre continue. *Comte de Fels.* Rev. Paris. Oct. 1, 1929.

China. China and the powers. *W. E. Leveson.* Fort Rev. Sept., 1929.

Conference. Conference and compromise. *Eduard C. Lindeman.* New Repub. Nov. 20, 1929.

Danube. Das Haager Rechtsgutachten über den Kempetenzstreit Rumäniens und der europäischen Donaukommission. *Fritz Krieg.* Zeitschrift für Volkerrecht. XV. Band. Heft 2 (1929).

Diplomacy. Souvenirs diplomatiques. Ma mission à Constantinople (1896-1900 (*suite et fin*). *T. G. Djuvara.* Rev. Sci. Pol. July-Sept., 1929.

———. La riconvenzione nella procedura internazionale. *D. Anzilotti.* Riv. Diritto Int. July-Sept., 1929.

———. Du secret diplomatique. *René Dollot.* Rev. Gén. Droit Int. Pub. July-Oct., 1929.

———. Myron T. Herrick. *T. Bentley Mott.* II. III. IV. World's Work. Oct., Nov., Dec., 1929.

Disarmament. Le projet soviétique de réduction des armements. *M. Litvinoff.* Rev. Droit Int. Sci. Dipl. et Pol. Apr.-June, 1929.

———. Abrüstung. *Viscount Cecil of Chelwood.* Frankreich und die Abrüstung. *Léon Jouhaux.* Nord und Süd. July, Aug., 1929.

———. Le désarmement et le socialisme international. *Arthur Henderson.* Rev. Mondiale. July 1, 1929.

———. Avant la conférence du désarmement naval: marine du Ponant, marine du Levant. *René La Bruyère.* Armée nationale ou armée de métier? *Général Debeny.* Rev. Deux Mondes. Aug. 1, Sept. 15, 1929.

———. Zur Abrüstungsfrage. *Josef L. Kunz.* Zeitschrift gesamte Staatswissenschaft. Sept., 1929.

———. Navies and peace: A British view. *Philip Kerr.* An American view. *Charles P. Howland.* A naval yardstick. *H. L. Vickery.* The risks of peace. *J. Ramsay MacDonald.* For. Affairs. Oct., Spec. Supp. (Oct.), 1929.

———. The limitation of naval armaments. *Denys P. Myers, Moses B. Cotsworth,* and *Others.* Cong. Digest. Oct., 1929.

———. Friedenssicherung durch Abrüstung? *Richard Kleineibst.* Sozialistische Monatshefte. Oct., 1929.

———. Outlying naval bases. *William T. Stone.* For. Pol. Assoc. Inf. Service. Oct. 2, 1929.

———. Mr. MacDonald and the dentist complex. "*Augur.*" The prospects for parity. *D. Arnold-Forster.* Fort. Rev. Oct., Nov., 1929.

———. Main factors of disarmament. *Philip Marshall Brown.* Denmark's disarmament program. *John H. Wuornin.* Anglo-American agreement on naval disarmament. *James Thayer Gerould.* Current Hist. Oct., Nov., 1929.

———. Can armaments be reduced? *Editor.* "Faith, hope and parity." *Sisley Huddleston.* New Repub. Oct. 2, Nov. 13, 1929.

———. Désarmement. *L. Dumont-Wilden.* Rev. Bleue. Nov. 2, 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Pacifism in high places. *L. J. Maxse.* Liv. Age. Nov. 15, 1929.

———. Il disarmo navale, i sottomarini e gli aeroplani. *Argus.* Nuova Antologia. Nov. 16, 1929.

———. Parity up or down? *Frederick E. Barkley.* Nation. Nov. 20, 1929.

———. Storm signals for London. *Frank H. Simonds.* Rev. of Revs. Dec., 1929.

Economic Organization. Les problèmes de l'économie internationale. *Henri Moro.* Rev. Écon. Int. Feb., 1929.

Economic Sanctions. Die wirtschaftlichen Sanktionen des Völkerbundes. *Hans Wehberg.* Gesellschaft. Jan., 1929.

———. Financial assistance to states threatened with aggression. *J. W. Garner.* Am. Jour. Int. Law. Oct., 1929.

Egypt. Suspense in Egypt. *Owen Tweedy.* Fort. Rev. Sept., 1929.

———. The Egyptian treaty and after. *Charles Sarolea.* English Rev. Sept., 1929.

———. Labour, Lord Lloyd and Egypt. *H. St. J. B. Philby.* Contemp. Rev. Sept., 1929.

———. Lord Lloyd and Egypt. *J. E. Marshall.* Quar. Rev. Oct., 1929.

———. The Nile waters agreement. *Pierre Crabitès.* For. Affairs. Oct., 1929.

———. A new status for Egypt. *Elizabeth P. MacCallum.* Nation. Oct. 2, 1929.

———. Britain's perils in the new Egyptian treaty. *Thomas Greenwood.* Current Hist. Nov., 1929.

Entente. Est-ce la fin de l'entente cordiale? *L. Dumont-Wilden.* Rev. Bleue. Sept. 7, 1929.

———. The Anglo-French divorce. *Frank H. Simonds.* Rev. of Revs. Oct., 1929.

———. Is the entente cordiale ended? *L. Dumont-Wilden.* Liv. Age. Oct. 15, 1929.

Eupen-Malmedy. Der Selbstbehauptungskampf Eupen-Malmedys. *Werner Wirths.* Deutsche Rundschau. Oct., 1929.

Europe. Europäische Coöperation. *Wilhelm Heile.* Nord und Süd. July, 1929.

———. Les états-unis d'Europe et l'exemple américain. *J. Lambert.* Rev. Gén. Droit Int. Pub. July-Oct., 1929.

———. Les états-unis d'Europe. *L. Dumont-Wilden.* Rev. Bleue. Aug. 18, 1929.

———. La pan-Europe de M. Briand. *L'Ecouteur.* Grande Rev. Sept., 1929.

———. États-unis d'Europe. *Joseph Barthélemy.* Rev. Pol. et Parl. Sept., 1929.

———. L'empire britannique et les états-unis d' Europe. *Neville Chamberlain.* Rev. Mondiale. Oct. 15, 1929.

———. Une fédération européenne est-elle possible? *Wladimir d'Ormesson.* Rev. Paris. Oct, 15. 1929.

———. The united states of Europe. *John A. Hobson.* Nation. Oct. 30, 1929.

———. The disunited states of Europe. *Albert Bushnell Hart.* Current Hist. Nov., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. The united states of Europe. *John A. Hobson.* Contemp. Rev. Nov., 1929.

———. The united states of Europe. *Salvador de Madariaga.* Liv. Age. Nov. 1, 1929.

Extraterritoriality. The former foreign settlements in Korea. *Harold J. Noble.* Am. Jour. Int. Law. Oct., 1929.

———. Personal law of British subjects in Egypt and Palestine. *Frederic M. Goadby.* Law Quar. Rev. Oct., 1929.

———. The extraterritorial issue in China. *E. M. Gull.* Nine. Cent. Oct., 1929.

———. China denounces extraterritorial treaties. *Wilbur Burton.* Current Hist. Nov., 1929.

Falkland Islands. The Falkland islands dispute between the United States and Argentina. *Paul D. Dickens.* Hisp. Am. Hist. Rev. Nov., 1929.

Freedom of the Seas. Englisch-amerikanische Flottenrivalität and Freiheit der Meere. *Taraknath Das.* Preuss. Jahrbücher. Aug., 1929.

———. Political reasons making undesirable an international agreement as to freedom of the seas. *William Ledyard Rodgers.* Freedom of the seas. *Chandler P. Anderson.* Am. Jour. Int. Law. Oct., 1929.

———. Is the doctrine of the freedom of the seas obsolete? *Harold S. Quigley.* The world-wide naval problem: I. Disarmament as affected by freedom of the seas. *Burton L. French.* II. A new code of sea law. *George Young.* Current Hist. Oct., Dec., 1929.

———. Anglo-American relations and sea power: I. An English view. *Sir Valentine Chirol.* II. An American view. *H. B. Elliston.* III. A naval view. *Sir Archibald Hurd.* Nine. Cent. Nov., 1929.

———. Free ships or free seas? *George Young.* New Repub. Dec. 4, 1929.

German Foreign Policy. La nouvelle Allemagne politique. *Maurice Aubrey.* Grande Rev. Sept., 1929.

———. Der Aussenpolitiker Stresemann. *Julius Kaliski.* Sozialistische Monatshefte. Oct., 1929.

———. M. Stresemann et le rapproachement franco-allemand. *L. Dumont-Wilden.* Rev. Bleue. Oct. 19, 1929.

———. Il pensiero e l'opera di Gustavo Stresemann. *Francesco Tommasini.* Nuova Antologia. Nov. 16, 1929.

Greenland. La question de la souveraineté sur le Groenland oriental. *Jens Bull.* Rev. Droit Int. et Légis. Comp. No. 3, 1929.

Haiti. The American occupation of Haiti. *Raymond Leslie Buell.* For. Pol. Assoc. Inf. Service. Nov. 27-Dec. 12, 1929.

———. Roover's problem in Haiti. *Editor.* New Repub. Dec. 18, 1929.

Indian Tribes. Indians and treaties in law. *N. A. M. MacKenzie.* Canadian Bar Rev. Oct., 1929.

International Administration. The personnel of international administration. *Norman L. Hill.* Am. Pol. Sci. Rev. Nov, 1929.

International Labor Organization. Works and methods of the international labour organization. *H. A. Grimshaw.* Koloniale Studien. Apr., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. International labor relations of federal governments. *Francis G. Wilson.* Southwestern Pol. and Soc. Sci. Quar. Sept., 1929.

International Law. Entscheidungen nationaler Gerichte von völkerrechtlicher Bedeutung. *Karl Strupp.* Zeitschrift für Völkerrecht. XV. Band. Heft 2 (1929).

———. La justice internationale et la protection des intérêts privés (*à suivre*). *S. Rundstein.* Rev. Droit Int. et Légis. Comp. No. 3, 1929.

———. La session de l'institut international du droit public. XXX. Rev. Pol. et Parl. Aug., 1929.

———. Measure of damages in international law. *Clyde Eagleton.* Yale Law Jour. Nov., 1929.

———. Equity as a concept of international law *(to be continued). Lester Bernhardt Orfield.* Ky. Law Jour. Nov., 1929.

———. The new international law. *James W. Garner.* Miss. Law Jour. Nov., 1929.

League of Nations. Les précurseurs espagnols de la S. D. N. *A. Reveczs.* Rev. Mondiale. Aug. 1, 1929.

———. Who kept the United States out of the league of nations? *H. Maurice Darling.* Canadian Hist. Rev. Sept., 1929.

———. Briand at Geneva. *René Benjamin.* Ten years of the league. *Lord Robert Cecil.* Some human aspects of the league. *'Peer Gynt.'* Liv. Age. Sept. 1, Oct. 15, Nov. 15, 1929.

———. Quelques réflexions touchant le règlement des conflits internationaux. *A. Decencière-Ferrandière.* Rev. Gén. Droit Int. Pub. July-Oct., 1929.

———. La IX*me* assemblée de la société des nations. *Antoine Sottile.* Zeitschrift für Völkerrecht. XV. Band. Heft 2 (1929).

———. The election of Canada to the league of nations council in 1927. *Frederic H. Soward.* Am. Jour Int. Law. Oct., 1929.

———. La X*e* assemblé de la société des nations. *Georges Scelle.* Rev. Pol. et Parl. Oct., 1929.

———. The tenth assembly. *H. Wilson Harris.* Contemp. Rev. Oct., 1929.

———. Werk und Werkzeuge des Völkerbundes. *Lord Robert Cecil.* Der Völkerbund sine ira. *Erich Koch-Weser.* Wie Genf Völkerbundstadt wurde. *William E. Rappard.* Völkerbund und Völkerrecht. *S. Rundstein.* Nord und Süd. Oct., 1929.

———. The league revives. *H. N. Brailsford.* Latin America at Geneva. *Editor.* New Repub. Oct. 2, 16, 1929.

———. "Swaraj": India, and the league of nations. *Arthur Davies.* A reply. *Sir Reginald Craddock.* Nine. Cent. Oct., Nov., 1929.

———. Reflections from Geneva. *Hugh F. Spender.* Fort Rev. Nov., 1929.

———. La *X*e assemblée de la S. D. N. *Pierre de Quirelle.* Correspondant. Nov. 10, 1929.

Manchuria. Le conflit sino-soviétique et le chemin de fer de l'est chinois. *G. M.* Rev. Pol. et. Parl. Aug., 1929.

———. Weltpolitik in der Mandschurei. *Georg Cleinow.* Neue Rundschau. Sept., 1929.

———. Japan looks at the Russo-Chinese dispute. *K. K. Kawakami.* Nine. Cent. Sept., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Manchuria to-day. *Richard Hülsenbeck.* Liv. Age. Sept. 15, 1929.

———. The Russo-Chinese conflict in Manchuria. *K. K. Kawakami.* For. Affairs. Oct., 1929.

———. The Manchurian tangle. *Robert Machray.* Fort. Rev. Oct., 1929.

———. Soviet-Chinese negotiations for settlement of railway dispute. *Harold S. Quigley.* Current Hist. Oct., 1929.

Mandates. Economic equality and the mandates commission. *Edward C. Jenkins.* Jour. Pol. Econ. Oct., 1929.

———. Ostafrikanische Eingebornenrechte. *Heinrich Dove.* Preuss. Jahrbücher. Oct., 1929.

———. The crisis in east Africa. *Raymond Leslie Buell.* Nation. Nov. 6, 1929.

———. The mandates system after ten years. *Raymond Leslie Buell.* Current Hist. Dec., 1929.

Mediterranean. Crispi e la politica mediterranea e orientale. III. *G. Palumbo-Cardella.* Politica. June-Aug., 1929.

Mexico. Le problème mexicain, les États-Unis et nous. *Jacques Kulp.* Rev. Deux Mondes. Oct. 15, 1929.

Minorities. Quelques réflexions sur les récentes discussions relativement à la protection des minorités. *A. H. Philipse.* Rev. Droit Int. et Légis. Comp. No. 3, 1929.

———. Madrid und Minderheiten. *Austriacus.* Neue Literatur zur Minderheitenfrage. *Hermann Raschhofer.* Minderheitenrecht in deutschen Reich. *Hermann Raschhofer.* Deutsche Arbeit. July, Aug., 1929.

———. The unhealed wounds of Europe. *Sir Willoughby Dickinson.* Contemp. Rev. Sept., 1929.

———. La Hongrie et les minorités. *Comte Franz Hunyadi.* Rev. Mondiale. Sept. 1, 1929.

Montenegro. Le calvaire d'un petit peuple héroïque: le Monténégro et son droit d'existance. *Truels wiel.* Rev. Droit Int., Sci. Dipl. et Pol. April-June, 1929.

Morocco. L'Allemagne au Maroc. *P. Louis Rivière.* Rev. Sci. Pol. July-Sept., 1929.

———. Great Britain and France in northern Africa. Round Table. Sept., 1929.

———. Morocco revisited. *Charles E. Hobhouse.* Contemp. Rev. Oct., 1929.

Nationalism. Nationalism in German history textbooks. *P. E. Lutz.* Hist. Outlook. Oct., 1929.

Naturalization. The Italo-American conflict on naturalization. *Robert Ferrari.* Current Hist. Nov., 1929.

Near East. The labor government of the near east. *George C. Young.* New Repub. Oct. 23, 1929.

Oil Policy. La politique du petrôle. *François Lescazes.* Nouvelle Rev. Aug. 1, Oct. 1, 15, Nov. 1, 15, 1929.

———. Oil legislation in South America. *Sir Arnold Wilson.* For. Affairs. Oct., 1929.

Outlawry of War. Kellogg-Vertrag und Völkerrecht. *Georg Cohn.* Zeitschrift für Völkerrecht. XV. Band. Heft 2 (1929).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Kellogg-Pagt og Litvinoff-Protokol. *Gustav Rasmussen.* Gads Danske Mag. July-Aug., 1929.

———. Le pacte de Paris et le problème du désarmement. *Nicolas Politis.* L'Esprit Int. Oct., 1929.

———. The legal effect of the Kellogg-Briand treaty. *E. A. Harriman.* Boston Univ. Law Rev. Nov., 1929.

———. Did Stimson blunder? *Editor.* New Repub. Dec. 18, 1929.

Pacific. Peace in the Pacific. *Chester H. Rowell.* World's Work. Nov., 1929.

Palestine. Palästina und der Sozialismus. *Julius Kaliski.* Sozialistische monatschefte. Sept., 1929.

———. Palästinensisches. *Samuel Saenger.* Neue Rundschau. Oct., 1929.

———. Les evénements de Palestine. *Kadmi-Cohen.* Mercure de France. Oct. 1, 1929.

———. Les événements de Palestine. *Eugène Godefroy.* Correspondent. Oct. 10, 1929.

———. The Palestine conflict. *Elizabeth P. MacCallum.* For. Pol. Assoc. Inf. Service. Oct. 16, 1929.

———. Myths in Palestine. *William Zukerman.* Nation. Oct. 16, 1929.

———. The Arab attack on the Jews in Palestine. *William Schack.* The conflict between Jews and Arabs in Palestine. *Albert H. Lybyer.* The Arab-Jewish conflict in Palestine: I. Palestine Arab's claim to be fighting for national existence. *Ameen Rihani.* II. Zionism as a spiritual ideal and a blessing to Palestine. *Meyer W. Weisgal.* Continued danger in Palestine. *Albert H. Lybyer.* Current Hist. Oct., Nov., Dec., 1929.

———. Jerusalem in ferment. *Hallen Viney.* Atlan. M. Dec., 1929.

Persia. Anglo-Persian relations. *H. A.* Edin. Rev. Oct., 1929.

Polish Corridor. Peace and the Polish corridor. *J. H. Harley.* English Rev. Sept., 1929.

Prohibition. L'exterritorialité des ambassades et le prohibition de l'alcool aux États-Unis. *Crabitès.* Rev. Pol. et Parl. Aug., 1929.

———. The I'm Alone. *Clyde Eagleton.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

Protectorate. Das französische Protektorat in Hinterindien. *Erich von Salzmann.* Deutsche Arbeit. Aug., Sept., 1929.

Recognition. Extraterritorial effect of unrecognized governments. *Bernard Samuels.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

Refugee Problem. I was sent to Athens. *Henry Morgenthau.* World's Work. Oct., 1929.

Reparations. La liquidation de la guerre. De la Haye à Genève ou l'organisation des illusions. *L. Dumont-Wilden.* Rev. Bleue. July 20, Sept. 21, 1929.

———. Où en est la liquidation des dommages de guerre. *Georges Baudoux.* Rev. Pol. et Parl. Aug., 1929.

———. German reparations—1929. *S. Parker Gilbert* and *Others.* Cong. Digest. Aug.-Sept., 1929.

———. Mr. Keynes' views on the transfer problem. I. *Jacques Rueff.* II. *B. Ohlin.* III. *J. M. Keynes.* Econ. Jour. Sept., 1929.

———. Poincaré and the Hague. *"Augur."* Fort. Rev. Sept., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. De la Haye à Genève. *Georges Guy-Grand.* Grande Rev. Sept., 1929.

———. A la conférence de la Haye.—Choses vues et entendues. I. II. *Maurice Pernot.* Où sera la siège de la banque internationale? *Lucien Petit.* Rev. Deux Mondes. Sept. 1, 15, Nov. 15, 1929.

———. La conférence de la Haye et la diplomatie. *Pierre Bernus.* Rev. Paris. Sept. 15, 1929.

———. The reparations settlement. *Leon Fraser.* Int. Conciliation. Oct., 1929.

———. La conférence de la Haye et l'esprit international. *Maurice Pernot.* L'Esprit Int. Oct., 1929.

———. Der Ziffernstreit im Haag. *Robert Dell.* Nord und Süd. Oct., 1929.

———. The Hague conference and after. *Hugh F. Spender.* Contemp. Rev. Oct., 1929.

———. Britain at the Hague. *Philip Snowden.* Liv. Age. Oct. 1, 1929.

———. Transatlantic finance. *Louis T. McFadden.* Sat. Eve. Post. Oct. 19, 1929.

———. The riddle of reparations. Will the Young plan work? The international bank. *George Soule.* New Repub. Nov. 6, 13, 20, 1929.

———. La banca dei regolamenti internazionali. *G. B.* Nuova Antologia. Nov. 16, 1929.

———. Problems of creating international bank. *James Thayer Gerould.* Current Hist. Dec., 1929.

———. War indemnities and business conditions. II. *Georg Bielschowsky.* Pol. Sci. Quar. Dec., 1929.

———. The reparations referendum. *A. H. Feller.* Nation. Dec. 4, 1929.

Reservations. Le riserve nelle convenzioni collettive. *C. Baldoni.* Riv. Diritto Int. July-Sept., 1929.

Responsibility of States. Étude sur la responsabilité internationale de l'état. *W. van Hille.* Rev. Droit Int. et Légis. Comp. No. 3, 1929.

Rhine. L'évacuation de la Rhénanie. *Wladimir d'Ormesson.* Rev. Paris. Aug. 1, 1929.

Russia. Il concetto sovietista di diritto internazionale. I. *G. Filippucci-Giustiniani.* Politica. June-Aug., 1929.

———. Les relations germano-russes. *Otto Hoetzsch.* L'Esprit Int. Oct., 1929.

———. Shall we recognize Russia? *A. Duff-Gordon* and *Charles Roden Buxton.* Fort. Rev. Oct., 1929.

Saar. Zur Auslegung des Versailler Vertrages (Saargebiet). *Dr. Heinsheimer.* Zeitscrift für Völberecht. XV. Band. Heft. 2 (1929).

———. Le problème de la Sarre. *Kenneth Headlam-Morley.* La Paix. Feb., 1929.

———. Le long de nos frontières.—La question de la Sarre. *Fr. De Witt-Guizot.* Rev. Deux Mondes. Oct. 15, 1929.

———. Le problème de la Sarre et la négociation franco-allemande. *Etienne Bougoüin.* Mercure de France. Oct. 15, 1929.

State Succession. The succession of the Irish free state. *Charles Keith Uren.* Mich. Law Rev. Dec., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Swedish Foreign Policy. Svensk utrikespolitik. *Rutger Essén.* Svensk Tidskrift. No. 3, 1929.

Tangier. Die völkerrechtliche Entwicklung der Tangerfrage 1923-1928. *Manfred Langhans-Ratzeburg.* Zeitschrift für Völkerrecht. XV. Band. Heft 2 (1929).

Tariff. Le conflit douanier mondial. *A. Daudé-Bancel.* Grande Rev. Aug., 1929.

———. Die europäische Zollmauern. *Sir Clive Morrison-Bell.* Nord und Süd. Aug., 1929.

———. The tariff bill and our friends abroad. *F. W. Taussig.* European reactions to American tariff proposals. *André Siegfried.* For. Affairs. Oct., 1929.

———. South American opposition to United States tariff policy. *Henry Grattan Doyle.* Current Hist. Oct., 1929.

———. The tariff as a matter of international concern. *Arthur K. Kuhn.* Am. Jour. Int. Law. Oct., 1929.

Treaties. Interpretation of treaties. *Alexander P. Fachiri.* The interpretation of treaties. *Philip Marshall Brown.* The interpretation of treaties by the supreme court of the United States. *Charles Cheney Hyde.* Am. Jour. Int. Law. Oct., 1929.

———. De l'inefficacité des conventions internationales en temps de guerre. *François Maury.* Rev. Bleue. Oct. 19, 1929.

Tyrol. Südtirol und das italienische Konkordat. *Friedrich Mauerkircher.* Deutsche Arbeit. Sept., 1929.

Vatican. Remarques sur la politiques: les deux Rome. *Georges Guy-Grand.* Grande Rev. July, 1929.

———. Le traité de latran (11 fév. 1929) et la situation juridique nouvelle de la papauté. *J. T. Delos.* Rev. Gén. Droit Int. Pub. July-Oct., 1929.

———. Das preussische Konkordat. *Joh. Victor Bredt.* Preuss. Jahrbücher. Aug., 1929.

———. The Roman question and the lateran agreements. Round Table. Sept., 1929.

———. Rome of yesterday and today. *Luigi Villari.* Edin. Rev. Oct., 1929.

———. The new crusade. *E. W. Polson Newman.* Fort. Rev. Oct., 1929.

———. A diplomatic incident: when Washington closed our vatican ministry. Atlan. M. Oct., 1929.

———. The magnificent emergence: old Rome makes new history. *Adam Day.* Century. Autumn, 1929.

———. Le concordat prussien. *Jacques Maupas.* Correspondent. Nov. 10, 1929.

Versailles Treaty. Against Versailles. *Count Ulrich von Brockdorff-Rantzau.* Liv. Age. Sept. 1, 1929.

———. Der Volksrechtsgedanke und die Rechtsvorstellungen von Versailles. *Edgar J. Jung.* Deutsche Rundschau. Oct., 1929.

War. La guerre à l'histoire. *Charles Delvert.* Rev. Deux Mondes. Oct. 15, 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

War Debts. La ratification. *Ignotus.* La ratification et l'opinion. *François Piétri.* Rev. Paris. Aug. 1, 15, 1929.

———. La ratification de l'accord franco-américain Mellon-Bérenger sur le remboursement des prêts. *Gaston Jèze.* L'Esprit Int. Oct., 1929.

———. The war debts. *Edwin L. James.* World's Work. Oct., 1929.

World Court. Les affaires traitées par la cour permanente de justice internationale pendant la période 1926-1928 *(suite). Michel de la Grotte.* Rev. Droit Int. et Légis. Comp. No. 3, 1929.

———. La révision du statut de la cour permanente de justice internationale. *R. Cassin.* Rev. Gén. Droit Int. Pub. July-Oct., 1929.

———. Der Haager Gerichtshof vor der 10. Vollversammlung. *René Cassin.* Nord und Süd. Oct., 1929.

———. The permanent court of international justice: American accession and amendments to the statute. *Philip C. Jessup.* Int. Conciliation. Nov., 1929.

———. The world court. *Newton D. Baker.* Am. Bar Assoc. Jour. Dec., 1929.

World Peace. Die Revolution des Friedens. *Otto Lehmann-Russbüldt.* Die Hoffnung auf Frieden. *Nicholas Murray Butler.* Nord und Süd. Aug., Sept., 1929.

———. A fresh start in international affairs. Round Table. Sept., 1929.

———. La paix et le projet de Kant. *Henri Sérouya.* Mercure de France. Sept. 1, 1929.

———. Early plans for world peace. *C. C. Tansill.* Hist. Outlook. Nov., 1929.

———. Sovranità e giustizia nei rapporti fra gli stati. *Carlo Schanzer.* Nuova Antologia. Nov. 1, 1929.

World War. Serbiens und der Entente Vorkriegspolitik im Lichte neuer Urkunden. *Curt Schütt.* Preuss. Jahrbücher. Aug., 1929.

———. Études diplomatiques.—Le premier mois de la guerre mondiale. *Albert Pingaud.* La paix des empires centraux. I. II. * * *. Rev. Deux Mondes. Aug. 1, Sept. 1, 15, 1929.

———. Documents diplomatiques français. *Elie Halévy.* Rev. Paris. Sept. 1, 1929.

———. Les origines de la guerre. *M. Groub.* Rev. Bleue. Sept. 7, 1929.

———. The last days of the Hapsburg empire. *Ian F. D. Morrow.* Edin. Rev. Oct., 1929.

———. Foch and Clemenceau. *Raymond Recouly.* Scribner's. Oct., 1929.

———. Die französiche Aktenpublikation. *Louis Eisenmann.* Europäische Gespräche. Oct., 1929.

———. Russia and Constantinople: Count Kokovtzov's evidence. *Michael T. Florinsky.* For. Affairs. Oct., 1929.

———. The German declaration of war on France: the question of telegram mutilations. *Harry Elmer Barnes.* Am. Hist. Rev. Oct., 1929.

———. Germany and the crime of the world war. *C. G. Fenwick.* Am. Jour. Int. Law. Oct., 1929.

———. The Potsdam conference: new evidence corroborating ambassador Morgenthau. *Raymond Turner.* Current Hist. Nov., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

JURISPRUDENCE

Books

Dabin, Jean. La philosophie de l'ordre juridique positif. Paris: Sirey.

Durham, M. Edith. Some tribal origins, laws, and customs of the Balkans. Pp. 318. N. Y.: Macmillan.

Ehrlich, Eugen. Grundlegung der Soziologie des Rechts. Pp. 409. München.

Ewing, A. C. The morality of punishment. Pp. xiv+234. London: Kegan Paul.

Geldart, W. M. Elements of English law. (Revised by Sir William Holdsworth.) Pp. 256. London: Butterworth.

Giese, Friedrich. Einführung in die Rechtswissenschaft. Pp. 108. Berlin: Spaeth & Linde.

Goodenough, Erwin R. The jurisprudence of the Jewish courts in Egypt. New Haven: Yale Univ. Press.

Hampe, T. Crime and punishment in Germany. (Translated by Malcolm Letts.) London: Routledge.

Harris, Louis. The story of crime. Boston: Stratford Press.

Johnsen, Julia E., comp. The Baumes law. Pp. 189. N. Y.: H. W. Wilson.

McCarty, Dwight G. Psychology for the lawyer. Pp. 723. N. Y.: Prentice-Hall.

Moschzisker, Robert von. Stare decisis, res judicata, and other selected essays. Pp. vii+375. Philadelphia: Cyrus M. Dixon.

Plucknett, Theodore F. T. A concise history of the common law. Rochester (N. Y.): Lawyers Co-op. Pub. Co.

Port, Frederick John. Administrative law. N. Y.: Longmans.

Rothe, Tancrède. L'esprit du droit chez les anciens. Pp. ii+157. Paris: Sirey.

Sauer, Wilhelm. Lehrbuch der Rechts-und Sozialphilosophie. Pp. xx+348. Berlin: Walther Rothschild.

Sellin, Thorstein, ed. The police and the crime problem. Pp. v+293. Ann. Am. Acad. Nov., 1929.

Vinogradoff, Paul. Roman law in medieval Europe. (Second ed., by F. de Zulueta.) Pp. 155. N. Y.: Oxford Univ. Press.

Articles

Administrative Law. Rechtsstaat und Verwaltungsrecht. *Fritz Morstein Marx.* Zeitschrift gesamte Staatswissenschaft. Sept., 1929.

Admiralty Law. Tradition and commonsense in admiralty. *Ernest Bruncken.* Marquette Law Rev. Dec., 1929.

Ambulance Chasing. The practice of law by non-lawyers. *Charles L. Aarons.* Marquette Law Rev. Dec., 1929.

American Law Institute. How the work of the American law institute may be applied in practice. *J. G. Hardgrove.* Marquette Law Rev. Dec., 1929.

Analytical Jurisprudence. Analytical jurisprudence as related to modern legal methods. *Frederick J. de Sloovere.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. The study of jurisprudence. *J. F. Davison.* Canadian Bar Rev. Sept., 1929.

Appeals. English appellate procedure. *Samuel O. Clark, Jr.* Yale Law Jour. Nov., 1929.

———. Penalties for frivolous appeals. *Note Editor.* Harvard Law Rev. Nov., 1929.

Arbitration. Arbitration and award: commercial arbitration in California. *E. J. S.* Calif. Law Rev. Sept., 1929.

Bar. The influence of the bar in the advance of civilization. *Samuel Rubin.* Jour. Crim. Law and Crim. Nov., 1929.

———. Conservation of the traditions of the legal profession. *Gurney E. Newlin.* Character requirements for admission to bar: the judiciary's responsibility. *William C. Coleman.* What the bar is doing—what more it can do. *Emory R. Buckner.* Am. Bar Assoc. Jour. Dec., 1929.

———. Some duties and responsibilities of the legal profession. *John H. Lewis.* Com. Law League Jour. Dec., 1929.

Blackstone. Bentham on Blackstone: a review. *William Renwick Riddell.* Am. Bar Assoc. Jour. Nov., 1929.

Capital Punishment. Murder and the death penalty. *E. Roy Calvert.* Nation. Oct. 16, 1929.

Case Method. The case method in Canada and the possibilities of its adaptation to the civil law. *Edouard Lambert* and *Max J. Wasserman.* Yale Law Jour. Nov., 1929.

Certiorari. Purpose of certiorari in supreme court practice and effect of denial or allowance. *James Craig Peacock.* Am. Bar Assoc. Jour. Nov., 1929.

Common Law. Is there a common will? *Learned Hand.* Mich. Law Rev. Nov., 1929.

Conflict of Laws. Les accords de latran et le droit international privé. *J. P. Niboyet.* Rev. Droit Int. Sci. Dipl. et Pol. Apr.-June, 1929.

———. Problème der deutsch-österreichischen Rechtsangleichung. *Heinrich Mitteis.* Preuss. Jahrbücher. Oct., 1929.

———. The divorce of Americans in Mexico. *Lindell T. Bates.* Am. Bar Assoc. Jour. Nov., 1929.

Constitutional Law. Verfassungslehre. *Fritz Hartung.* Zeitschrift gesamte Staatswissenschaft. Sept., 1929.

Contempt of Court. Jury shadowing as contempt of court. *Henry Alan Johnston.* U. S. Law Rev. Oct., 1929.

Crime. The criminal. II. Small fry. III. Sheep in wolves' clothing. *A. R. L. Gardner.* Nine. Cent. Sept., Oct., 1929.

———. Combating crime. *Clarence Darrow.* Forum. Nov., 1929.

———. The activities and results of crime surveys. *John M. Pfiffner.* Am. Pol. Sci. Rev. Nov., 1929.

Equality before Law. "Poor persons" in the law courts. Quar. Rev. Oct., 1929.

Equity. The origin of equity. *Charles A. Keigwin.* The nature of equitable rights and equitable title. *William F. Walsh.* Georgetown Law Jour. Nov., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

———. Blackstone's treatment of equity. *Sir W. S. Holdsworth.* Harvard Law Rev. Nov., 1929.

Habitual Criminals. Modern tendencies in habitual criminal legislation. *J. A. Royce McCuaig.* Cornell Law Quar. Dec., 1929.

Humanism. Some jurists and humanists. *Bertram B. Benas.* Jurid. Rev. Sept., 1929.

Judiciary. The judicial task. *Truman S. Stevens.* Neb. Law Bull. July, 1929.

———. "To establish justice." *Andrew R. Sherriff.* Jour. Am. Judicature Soc. Dec., 1929.

———. Observations on judicial opinions. *Joseph C. Higgins.* Tenn. Law Rev. Dec., 1929.

Jury. An optional alternative for the jury in civil cases. *Robert W. Devoe.* Neb. Law Bull. July, 1929.

———. Judicial comment on the evidence in jury trials. *Henry L. Walker.* Am. Bar Assoc. Jour. Oct., 1929.

———. Waiver of jury in felony trials. *W. Abraham Goldberg.* Mich. Law Rev. Dec., 1929.

Law Enforcement. The popular dogma of law enforcement. *Walter Lippmann.* Yale Rev. Autumn, 1929.

———. Officialism and lawlessness. *Albert Jay Nock.* Harper's. Dec., 1929.

———. Justice on the carpet. *Richard Washburn Child.* Sat. Eve. Post. Dec. 7, 1929.

———. Law enforcement is in the hands of the average citizen. *H. E. French.* Am. City. Dec., 1929.

Law Librarians. The educational requirements of law librarians. *Frederick C. Hicks.* Am. Bar Assoc. Jour. Nov., 1929.

Law of the Case. The "law of the case" in Massachusetts. *Henry T. Lummus.* Boston Univ. Law Rev. Nov., 1929.

Layman. The layman in quasi-judicial positions. *S. H. McCuaig.* Canadian Bar Rev. Nov., 1929.

Legal Education. Legal scholarship and keys to judicial law-making. *L. Vold.* Measure of responsibility which should be assumed by law schools. *H. W. Arant.* Am. Bar Assoc. Jour. Nov., Dec., 1929.

———. Juristic psychopoyemetrology. *John H. Wigmore.* Ill. Law Rev. Dec., 1929.

Legal History. The cradle of western law: a survey of ultimate judicial sources. *Charles Sumner Lobingier.* U. S. Law Rev. Nov., 1929.

Mexican Code. Mexico's bold experiment in new criminal code. *Salvador Mendoza.* Current Hist. Oct., 1929.

Moral Turpitude. Criminal law—moral turpitude. *J. G. G.* South. Calif. Law Rev. Oct., 1929.

———. Crimes involving moral turpitude. *Note Editor.* Harvard Law Rev. Nov., 1929.

Officiousness. Officiousness. I. *Edward W. Hope.* Cornell Law Quar. Dec., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Parole. Parole: principles and practice. *Clair Wilcox.* Jour. Crim. Law and Crim. Nov., 1929.

Penalties. Possible penalties for crime. *Dorothy Jean Randall.* Jour. Crim. Law and Crim. Nov., 1929.

Prisons. Revolt in our prisons. *T. R. Ybarra.* Outlook. Oct. 30, 1929.

———. The relation of jails to county and state. *Louis N. Robinson.* Jour. Crim. Law and Crim. Nov., 1929.

———. English prisons—what they are like. *Lord Brentford.* Sat. Eve. Post. Dec. 14, 1929.

Problems of Law. The permanent problems of the law. *Max Radin.* Cornell Law Quar. Dec., 1929.

Procedure. Modern English and ancient Roman criminal procedure. *Erwin J. Urch.* U. S. Law Rev. Sept., 1929.

———. Some problems of bench and bar. *Josiah Marvel.* Miss. Law Jour. Nov., 1929.

———. Justice in British Columbia. Jour. Am. Judicature Soc. Oct., 1929.

———. Trial procedure—past, present and future. *Owen J. Roberts.* Am. Bar Assoc. Jour. Nov., 1929.

———. English procedure in trials and appeals. *Thomas Hewes.* Who shall control criminal procedure? Jour. Am. Judicature Soc. Dec., 1929.

Racketeering. The high cost of hoodlums. *John Gunther.* Harper's. Oct., 1929.

Roman Law. Expropriation in Roman law. *J. Walter Jones.* Law Quar. Rev. Oct., 1929.

Self-Crimination. A critical comment on the privilege against self-crimination. *Gabriel Wartels* and *Basil H. Pollitt.* Ky. Law Jour. Nov., 1929.

Sociological Jurisprudence. Vorfragen der Rechtssoziologie. *Julius Kraft.* Zeitschrift für vergleichende Rechtswissenschaft. XLV. Band. I. Heft (1929).

———. Soziologie und Rechtsphilosophie. *Peter Zissis.* Archiv Rechts-u. Wirtschaftsphilosophie. Oct., 1929.

Spanish Penal Code. Le nouveau code pénal espagnol. *José Guallart L. de Goicoechea.* Bull. l'Inst. Interméd. Int. Oct., 1929.

Witness. Religious belief as qualification of a witness. *J. Crawford Biggs.* N.C. Law Rev. Dec., 1929.

World Law Bureau. A world law bureau. *Charles W. Atwater.* Cornell Law Quar. Dec., 1929.

LOCAL GOVERNMENT

Books

Ashford, Ethel B. Local government. Pp. viii+119. London: P. S. King.

Danneberg, Robert. La municipalité social-democrate de Vienne. Paris: L'Eglantine.

Duffus, R. L. The New York of the future. N. Y.: Harper's.

Ferris, Hugh. The metropolis of tomorrow. N. Y.: Ives Washburn.

Hoffer, Frank W. Counties in transition: a study of county, public and private welfare administration in Virginia. Pp. xv+255. University (Va.): Institute for Research in the Social Sciences.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Hubbard, Mrs. Theodora Kimball, and *Hubbard, Henry Vincent.* Our cities of today and tomorrow: a survey of planning and zoning progress in the United States. Pp. 407. Cambridge: Harvard Univ. Press.

Karraker, Cyrus H. The seventeenth century sheriff. Chapel Hill (N. C.): Univ. of N. C. Press.

Moore, Charles, Washington, past and present. N. Y.: Century Co.

Stahl, Charles J. Electric street lighting. Pp. 228. N. Y.: John Wiley.

Walker, Harvey. Federal limitations upon municipal ordinance making. Pp. 208. Columbus: Ohio State Univ. Press.

Weinbaum, Martin. Verfassungsgeschichte Londons. Stuttgart: W. Kohlhammer.

Whyte, W. E. The local government (Scotland) act, 1929. Pp. viii+332. Edinburgh: Wm. Hodge & Co.

Articles

Accounting. Cost accounting for governmental activities. *Gustave A. Moe.* Pub. Management. Oct., 1929.

Administration. Some principles of administrative organization. *Clarence E. Ridley.* The place of science in municipal administration. *Walter Matscheck.* The growth of municipal functions. *Lent D. Upson.* Pub. Management. Sept., Nov., 1929.

Airports. Municipal airport administration. *O. E. Carr.* Pub. Management. Oct., 1929.

American Municipal Development. The development of city government in America. *Samuel C. May.* The scope of municipal government. *Louis Brownlow.* Pub. Management. Aug., Dec., 1929.

———. The future of the great city. *Stuart Chase.* Harper's. Dec., 1929.

Assessment. How Chicago awoke to need for honest assessments. *George O. Fairweather.* The reassessment of real estate in Cook county—a bloodless revolution. *John O. Rees.* Nat. Mun. Rev. Nov., 1929.

Borrowing. Regional variation in municipal borrowing rates. *Earl L. Moser.* Nat. Mun. Rev. Oct., 1929.

British Local Government. The position and functions of committees in local administration. *H. O. Hilary.* Pub. Admin. Oct., 1929.

———. Developments in British local government in 1929. *Arthur Collins.* Pub. Management. Dec., 1929.

Budget. The necessity for a budget. *C. E. Campton.* Minn. Municipalities. Dec., 1929.

Building Department. How the Cincinnati department of buildings conducts its work. *C. M. Stegner.* Am. City. Nov., 1929.

Chicago. Chicago, the phenomenal city. *Robert Morss Lovett.* Current Hist. Nov., 1929.

———. Chicago's persistent traction problem. *Paul H. Douglas.* Thwarting official crime and corruption in Chicago. *Albert R. Brunker.* Nat. Mun. Rev. Nov., 1929.

City Manager. Cleveland retains council-manager charter. *Mayo Fesler.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Council-manager government in Fort Worth. *Margaret Hall.* Pub. Management. Sept., Nov., 1929.

———. Cleveland again defeats attack on city manager charter. *Mayo Fesler.* Nat. Mun. Rev. Oct., 1929.

City Planning. Botched cities. *Lewis Mumford.* Am. Mercury. Oct., 1929.

———. It pays to plan. *Theodora Kimball Hubbard* and *Henry Vincent Hubbard.* Spaciousness in the city plan—its economic and civic importance. I. II. *Harold S. Buttenheim.* Making and using air-maps for city and regional planning. *Arthur A. Cassell.* Am. City. Oct., Nov., 1929.

———. A survey of city planning and zoning. *Marjorie Dickinson.* Ill. Mun. Rev. Nov., 1929.

County Government. Making the county automobile run. *Howard P. Jones.* Am. City. Oct., 1929.

———. The administration of the county of Molise in the twelfth and thirteenth centuries. Part. I. *Evelyn Jamison.* English Hist Rev. Oct., 1929.

Elections. Les élections municipales. *Raymond Recouly.* Rev. de France. June 1, 1929.

Governmental Principles. Some essentials of effective local government. *Clifford W. Ham.* Pub. Management. July, 1929.

Health. A big city shops for public health: an account of the Syracuse health demonstration. *Hetty Lovejoy Sorden.* Am. City. Oct., 1929.

———. Determining the amount to spend for health activities. *W. F. Walker.* Pub. Management. Nov., 1929.

Home Rule. Das Grundrecht der kommunalen Selbstverwaltung unter besonderer Berücksichtigung des Eingemeindungsrechts. *Fritz Stier-Somlo.* Archiv öffent. Rechts. Aug., 1929.

———. The municipal assembly—New York's home rule legislature. *Russell Forbes.* Wisconsin "unshackles" her cities. *Vincent Lynagh.* Nat. Mun. Rev. Oct., Dec., 1929.

———. Municipal home rule in New York. *Case and Comment Editor.* Yale Law Jour. Nov., 1929.

Housing. Vienna houses its workers. *Henry W. Laidler.* New Repub. Oct. 30, 1929.

———. Curing slums in Holland. *B. S. Townroe.* Contemp. Rev. Nov., 1929.

Illinois. Local government in Rock Island and Moline. *George A. Graham.* Ill. Mun. Rev. Nov., 1929.

Industry. Will that new industry be of real benefit to your city? *Edmund B. Besselievre.* Am. City. Nov., 1929.

Mayor. The American mayor through Chicago eyes. *Charles Edward Merriam.* Am. City. Oct., 1929.

Merit System. The merit system in Chicago and Cook County. *Edwin O. Griffenhagen.* Nat. Mun. Rev. Nov., 1929.

Metropolitan Area. The Pittsburgh consolidation charter. *Joseph T. Miller.* Simplification of government in metropolitan Chicago. *J. L. Jacobs.* Nat. Mun. Rev. Oct., Nov., 1929.

Municipal Corporation. The city as a municipal corporation. *William B. Munro.* Pub. Management. Sept., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Municipal Garage. Municipal garage organization and management. *G. M. Huttonlock.* Am. City. Oct., 1929.

New York. Our island universe. *Elmer Davis.* Harper's. Nov., 1929.

Party System. National parties in municipal politics. *O. Garfield Jones.* Nat. Mun. Rev. Oct., 1929.

Philadelphia. Vare's last triumph? *Louis Francis Budenz.* Nation. Oct. 2, 1929.

Pittsburgh. Pittsburgh reëlects mayor Kline. *Ralph S. Boots.* Nat. Mun. Rev. Dec., 1929.

Poor Law. The poor law authorities' part in local government. *W. M. Mowat.* Pub. Admin. Oct., 1929.

Public Utilities. Public utility franchises for municipalities in Minnesota. *Frederic B. Garver.* Present and possible future of municipal ownership of electric plants. *Edward W. Morehouse.* Minn. Municipalities. Oct., Nov., 1929.

Purchasing. Aids to better municipal purchasing. *Paul V. Betters.* Am. City. Dec., 1929.

Regional Government. Regional government; or, the next step in public administration. *Edgar Ashby.* Pub. Admin. Oct., 1929.

Registration. Permanent registration for voting in German cities. *Roger H. Wells.* Nat. Mun. Rev. Oct., 1929.

Russian Local Government. Local autonomy in Russian village life under the soviets. *Karl Borders.* Am. Jour. Sociol. Nov., 1929.

———. Municipal government in soviet Russia. I. Before and during the revolution. *Bertram W. Maxwell.* Nat. Mun. Rev. Dec., 1929.

Salvage. The salvage of municipal wastes. *Harrington Place.* Pub. Management. Dec., 1929.

Sanitary District. The sanitary district of Chicago in the supreme court of the United States. *Gardner S. Williams.* Mich. Law Rev. Nov., 1929.

Street Lighting. Through the dark ages of street lighting. *Charles J. Stahl.* Am. City. Nov., 1929.

Swedish Local Government. La politique communale socialistie en Suède. *Richard Lindström.* Avenir Soc. Mar., 1929.

———. Gemeindewirtschaft und Gemeindepolitik in Schweden. *Erwin Stein.* Zeitschrift für Kommunalwirtschaft. Mar. 25, 1929.

Taxation. Comparative tax rates of 235 cities, 1929. *C. E. Rightor.* Nat. Mun. Rev. Dec., 1929.

Traffic Problem. Abolishing street traffic intersections without grade separation. *Fritz Malcher.* America's first official state code on traffic signals issued by Massachusetts. *Maxwell Halsey.* Am. City. Sept., Oct., Nov., 1929.

———. Freeing the traffic courts for important cases. *Levi M. Hall.* Ill. Mun. Rev. Nov., 1929.

Village Government. Winnetka, the model village. *Mrs. Benjamin F. Langworthy.* Nat. Mun. Rev. Nov., 1929.

Washington. Rebuilding the capital. *J. Frederick Essary.* Sat. Eve. Post. Oct. 19, 1929.

Zoning. Zoning can help the farmer. *George B. Ford.* Nat. Mun. Rev. Dec., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

POLITICAL THEORY AND MISCELLANEOUS

Books

Allen, Devere, ed. Pacifism in the modern world. Pp. 296. Garden City: Doubleday, Doran.

Andrews, C. F. Mahatma Gandhi's ideas. N. Y.: Macmillan.

Bagnani, G. Rome and the papacy: an essay on the relations between church and state. Pp. xv+259. London: Methuen.

Beer, Max. Social struggles and socialist forerunners. (Translated by H. J. Stenning.) Pp. 224. N. Y.: Int. Pubs.

Bie, Richard. Revolution um Karl Marx. Pp. viii+347. Leipzig: R. Voigtländer.

Brown, Ivor. English political theory. Pp. 178. London: Methuen.

Burns, C. Delisle. Democracy: its defects and advantages. Pp. 207. London: Allen & Unwin.

Cobban, A. Edmund Burke and the revolt against the eighteenth century. London: Allen & Unwin.

Cole, G. D. H. and *Margaret.* The development of political literature. N. Y.: Harcourt, Brace.

Eastwood, R. A., and *Keeton, G. W.* The Austinian theories of law and sovereignty. London: Methuen.

Ercole, Francesco. Dal comune al principato. Pp. vii+381. Firenze: Vallecchi.

Flad, Ruth. Studien zur politischen Begriffsbildung in Deutschland während der preussischen Reform. Pp. 300. Berlin: Walter de Gruyter.

Göring, Helmut. Tocqueville und die Demokratie. Pp. xviii+222. Munich: R. Oldenbourg.

Griziotti, B. Principii di politica diritto e scienza della finanze. Pp. 324. Padua: A. Milani.

Hewart, Lord. The new despotism. N. Y.: Cosmopolitan Book Corporation.

Homo, Léon. Roman political institutions. Pp. xviii+403. London: Kegan Paul.

Kelsen, Hans. Von Wesen und Wert der Demokratie. (2. umgearbeitete Aufl.) Pp. vii+119. Berlin: J. C. B. Mohr (Paul Siebeck).

Laidler, Harry W., and *Thomas, Norman M.,* eds. The socialism of our times. Pp. 391. N. Y.: Vanguard Press.

Lapidus, I., and *Ostrovityanov, K.* An outline of political economy: political economy and soviet economics. Pp. 557. N. Y.: Int. Pubs.

Leibholz, G. Das Wesen der Repräsentation unter besonderer Berucksichtigung des Repräsentativsystems. Pp. 214. Berlin: Walter de Gruyter.

Osborne, C. E. Christian ideas in political history. London: John Murray.

Parra-Perez, C. Bolivar: contribucion al estudio de sus idea politicas. Paris: Ed. Excelsior.

Pucci, E. Come si è risolta la questione romana. Pp. 200. Rome: L'Osservatore Romano.

Richards, Leyton. The christian's alternative to war: an examination of christian pacifism. Pp. 159. N. Y.: Macmillan.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Schneider, Herbert W., and *Clough, Shepard B.* Making fascists. Pp. 212. Chicago: Univ. of Chicago Press.

Seligman, Edwin R. A., ed. Encyclopedia of the social sciences. Vol. I. N. Y.: Macmillan.

Smith, J. Allen. The growth and decadence of constitutional government. N. Y.: Holt.

Titus, Charles H., and *Harding, Victor H.* Government and society: a study in conflict. Pp. 250. N. Y.: Crofts.

Articles

Bentham. Bentham: philosopher and reformer. *William H. Alexander.* N. Y. Univ. Law Quar. Rev. Sept., 1929.

Communism. Is communism spreading? *Émile Vandervelde.* For. Affairs. Oct., 1929.

———. Platon et el communisme. *P. C. Solberg* et *Guy-Charles Cros.* Mercure de France. Nov. 1, 1929.

———. Blanqui and communism. *Edward S. Mason.* Pol. Sci. Quar. Dec., 1929.

Democracy. Le rôle du ministre des finances dans une démocratie. *Gaston Jèze.* Rev. Sci. et Légis. Finan. Jan.-Mar., 1929.

———. Challenges to democracy: the British labor movement and the consumers coöperatives. *Jerome Davis.* Century. Autumn, 1929.

Dictatorship. Die Diktatur und das Problem des grossen Mannes. *André Maurois.* Nord und Süd. Sept., 1929.

———. Diktatur oder Demokratie. *Fritz H. Herrmann.* Der Türmer. Sept., 1929.

Fascism. Dall' idea cattolica all' idea fascista. *Antonio Pagano.* Politica. June-Aug., 1929.

———. Mussolini disciple de Nietzsche. *Raoul de Nolva.* Mercure de France. Oct. 1, 1929.

———. Fascism and the international centre of fascist studies. *J. S. Barnes.* Dublin Rev. Oct., 1929.

———. Un précurseur du fascisme: l'oeuvre littéraire d'Ordenzo Soffici. *Paul Guiton.* Rev. Bleue. Oct. 5, 1929.

———. Mussolini's American empire. *Marcus Duffield.* Harper's. Nov., 1929.

Lenin. Dogma und Dialektik bei Lenin. *Valeriu Marcu.* Neue Rundschau. Aug., 1929.

Liberty. Liberty and law. *Sir J. A. R. Marriott.* Edin. Rev. Oct., 1929.

———. Zur Soziologie der Freiheit. *Ludwig Resch.* Archiv Rechts-u. Wirtschaftsphilosophie. Oct., 1929.

Pacifism. Britain's conscientious objectors. *Hubert W. Peet.* Nation. Nov. 13, 1929.

Parliamentarism. Il problema del parlamentarismo. *Hans Kelsen.* Nuovi Studi di Diritta, Economia e Politica. July-Aug., 1929.

———. La crise du parlementarisme: le remède. *Comte de Fels.* Notre enquête sur la "concentration." *Marcel Lucain* et *Comte de Fels.* Rev. Paris. Sept. 15, Dec. 1, 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Personal Rights. An English view of personal rights. *Geoffrey Layman.* Harper's. Nov., 1929.

Political Research. Recherches sur la classification des formes politiques. *Louis Delbez.* Rev. Droit Pub. et Sci. Pol. July-Sept., 1929.

———. The study of the ill as a method of research into political personalities. *Harold D. Lasswell.* Am. Pol. Sci. Rev. Nov., 1929.

Politics. La raison et les convictions politiques. *André Mouffiet.* Grande Rev. July, 1929.

———. Zwischen Geschichte und Politik. *Theodor Eschenburg.* Nord und Süd. Aug., 1929.

———. Some thoughts upon the nature of politics. *Viscount Knebworth.* English Rev. Sept., 1929.

———. The composition of political attitudes. *Gordon W. Allport.* Am. Jour. Sociol. Sept., 1929.

———. Kunst og Politik. *Tom Kristensen.* Tilskueren. Nov., 1929.

———. The passing of the politicians. *James Murphy.* Forum. Nov., 1929.

Proletariat. Die Umschichtung des Proletariats. *Emil Lederer.* Neue Rundschau. Aug., 1929.

Propaganda. The art of muddlement. *Will Irwin.* Scribner's. Oct., 1929.

Socialism. À propos de la crise doctrinale du socialisme. *Henri Noyelle.* Rev. d'Écon. Pol. Jan.-Feb., 1929.

———. Un nouveau théoricien du socialisme: Henri de Man. *É James.* Rev. de Métaphysique et Morale. Jan.-Mar., 1929.

———. Le socialisme et le capitalisme expliqués par Bernard Shaw. *Henri Sée.* Grande Rev. Aug., 1929.

———. Wie wird der Sozialismus verwirklicht? *Paul Kampffmeyer.* Sozialistische Monatshefte. Sept., 1929.

———. Socialism. II. *Stewart L. Murray.* Nine. Cent. Sept., 1929.

———. De l'origine des mots: socialisme, communisme, collectivisme. *Alexandre Renard.* Rev. Mondiale. Sept. 1, 1929.

State Functions. Zur Erreichung sozialer Ausgeglichenheit des Staates. *Oskar Aust.* Archiv Rechts-u. Wirtschaftsphilosophie. Oct., 1929.

———. The child and the state. *John Cooke.* Quar. Rev. Oct., 1929.

Syndicalism. Il sindacalismo e la realtà economica. *Maffeo Pantaleoni.* Politica. June-Aug., 1929.

Teaching of Government. Government and teacher training. *H. Arnold Bennet.* School and Society. Oct. 26, 1929.

———. An experiment in by-product teaching. *James T. Young.* Am. Pol. Sci. Rev. Nov., 1929.

Utopia. More's "Utopia." *W. E. Campbell.* Dublin Rev. Oct., 1929.

War Profiteer. Un grand profiteur de guerre: Ouvrard. I. II. III. *A. Arthur-Lévy.* Rev. Paris. Aug. 1, 15, Sept. 1, 1929.

Zionism. Zionism and the peace of the world. *Ameen Rihani.* The rights to a Jewish home land. *Bernard Flexner.* Nation. Oct. 2, 1929.

———. The passing of political zionism: I. Business leaders supplant national idealists. *William Zukerman.* II. Aims of American leadership in Palestine. *Bernard G. Richards.* Current Hist. Dec., 1929.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

GOVERNMENT PUBLICATIONS

MILES O. PRICE
Law Library, Columbia University

AMERICAN

UNITED STATES

Civil Service Commission. Brief history of United States civil service. Washington: Govt. Ptg. Off., 1929. 27 p.

Commerce department, Census bureau. Official register of United States, 1929, containing list of persons occupying administrative and supervisory positions in each executive and judicial department of the government, including District of Columbia. Washington: Govt. Ptg. Off., 1929. 179 p.

Congress. Senate. Senate manual, containing standing rules and orders of Senate, Constitution of United States, Declaration of Independence, Articles of Confederation, Ordinance of 1787, Jefferson's manual, etc. . . . . Washington: Govt. Ptg. Off., 1929. 726 p.

———. *Indian affairs committee.* Indian affairs, laws and treaties, v. 4, Laws to March 4, 1927 (with treaties, etc.) Washington: Govt. Ptg. Off., 1929. 1406 p.

———. *Judiciary committee.* Lobbying and lobbyists, preliminary report from subcommittee pursuant to S. res. 20 . . . . Washington: Govt. Ptg. Off., 1929. 5 p.

———. *House of Representatives.* Naturalization laws; comp. by Elmer A. Lewis . . . . Washington: Govt. Ptg. Off., 1929. 22 p.

Interior department. Pension bureau. Handbook containing abstracts of decisions and opinions and rules of procedure relating to retirement acts of May 22, 1920, and July 3, 1926, and amendments thereof . . . . Washington: Govt. Ptg. Off., 1929. 184 p.

Labor department. Naturalization bureau. Supreme court, no. 484, Oct. term. United States *v.* Rosika Schwimmer . . . . (opinion of court.) Washington: Govt. Ptg. Off., 1929. 7 p.

———. *Women's bureau.* History of labor legislation for women in three states (Massachusetts, New York, and California), by Clara M. Beyer, and chronological development of labor legislation for women in United States, by Florence P. Smith . . . . Washington: Govt. Ptg. Off., 1929. 288 p. (Bulletin 66).

Library of Congress. Catalog division. List of American doctoral dissertations printed in 1927; prepared by Mary Wilson MacNair. Washington: Govt. Ptg. Off., 1929. 266 p. (Contains supplementary lists of theses printed in 1918, 1920, 1921, 1922, 1923, 1924, 1925, and 1926.)

———. *Legislative reference service.* Tariff preference in Great Britain and British possessions: Imperial tariff preference . . . . Washington: Govt. Ptg. Off., 129. 42 p.

Manuscripts division. Journals of Continental Congress. 1774-89. Edited from original records in Library of Congress by Gaillard Hunt. v. 26-27. Washington: Govt. Ptg. Off., 1928.

Pan American Union. Guatemalan historical bibliography, by Antonio Batres Jaureguil. Washington: Govt. Ptg. Off., 1929. 10 p.

Personnel classification board. Extract from report of wage and personnel survey.

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Field Survey division. Personnel classification board: British civil service personnel administration; by Morris B. Lambie. Washington: Govt. Ptg. Off., 1929. 403-469 p.

State department. Commission of inquiry and conciliation. Bolivia and Paraguay. Report of chairman. Sept. 21, 1929. Washington: Govt. Ptg. Off., 1929. 63 p.

———. American foreign service. Washington: Govt. Ptg. Off., 1929. 60 p.

———. Foreign service of United States, diplomatic and consular, July 1, 1929. Washington: Govt. Ptg. Off., 1929. 96 p.

Tariff commission. Tariff in certain foreign countries, letter transmitting material prepared by Tariff commission showing tariff increases in foreign countries, method of valuation for ad valorem duties, and duties levied in foreign countries on agricultural commodities from United States. Washington: Govt. Ptg. Off., 1929. 50 p.

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Public archives commission. Corrections and addenda to the printed volume published by the state of Delaware, 1886, under the title "Minutes of the council of the Delaware state from 1776 to 1792." The omissions discovered in the printed volume of 1886 led to the issuing of the pamphlet as a supplement thereto. Henry Conrad, state archivist . . . . Dover, 1928. 8 p.

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———. *Joint legislative revenue committee.* Report . . . . by authority of an act of the fifty-sixth General assembly, March, 1929. Springfield, 1929. 135 p.

———. *University of Illinois. Urbana.* Guizot in the early years of the Orleanist monarchy, by Elizabeth Parnham Brush. Urbana, 1929. 236 p. (University of Illinois studies in the social sciences. v. 15. no. 2. Dated June, 1927.)

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———. Sino-foreign treaties of 1928. Peking, 1929. 52 p.

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Foreign office. British documents on the origins of the war, 1898-1914. Ed. by G. P. Gooch .... and Harold Temperley .... London .... 1929 v 4: The Anglo-Russian rapprochement. 1903-7. 656 p.

India office. East India. Report of the Indian states committee, 1928-1929. London: H. M. S. O., 1929. 74 p. Cmd. 3302.

———. *Royal colonial institute, Library.* A select list of recent publications contained in the Library of the R. C. I., illustrating the constitutional relations between the various parts of the British Empire. Comp. by Evans Lewin. London: R. C. I., 1926. 30 p.

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Amendment of the covenant of the League of nations as a result of the general adhesion of the members of the League to the pact of Paris for the renunciation of war. Extracts from the records of the tenth ordinary session of the assembly. Geneva, Oct. 15, 1929. 23 p. 1929. v. 17.

———. Conference for the Codification of international law. Draft rules of procedure. Geneva, 1929. 4 double pages (Fr. & Eng.) 1929. v. 7.

———. Constitution of 'Iraq (organic law). Geneva, 1929. 1929. VI. A1.

———. Collection of international agreements and internal legal provision for the prevention of double taxation and fiscal evasion. . . . . Brussels, 1928. 278 p.

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